

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

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5
6 IN RE: NATIONAL : MDL NO. 2804
7 PRESCRIPTION OPIATE :
8 LITIGATION :
9 :
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12 THIS DOCUMENT RELATES TO : CASE NO.
13 ALL CASES : 1:17-MD-2804
14 :
15 : Hon. Dan A.
16 : Polster

17 - - -

18 January 30, 2019

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20 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
21 CONFIDENTIALITY REVIEW

22 Videotaped deposition of JANET
23 GETZEY HART taken pursuant to notice, was held at
24 the law offices of Morgan, Lewis & Bockius LLP,
25 1701 Market Street, Philadelphia, Pennsylvania,
26 beginning at 9:34 a.m., on the above date, before
27 Ann Marie Mitchell, a Federally Approved
28 Certified Realtime Reporter, Registered Diplomat
29 Reporter, Registered Merit Reporter and Notary
30 Public.

31 - - -

32 GOLKOW LITIGATION SERVICES
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<p style="text-align: right;">Page 10</p> <p>1 THE VIDEOGRAPHER: We're now on 2 the record. My name is David Lane, 3 videographer for Golkow Litigation 4 Services. Today's date is January 30, 5 2019. The time is 9:34 a.m. 6 This deposition is taking place 7 in Philadelphia, Pennsylvania in the 8 matter of National Opiate Litigation, 9 MDL. 10 Our deponent today is Janet 11 Getzey Hart. Counsel will be noted on 12 the stenographic record. 13 Our court reporter is Ann Marie 14 Mitchell, who will now swear in the 15 witness. 16 - - - 17 JANET GETZEY HART, after having 18 been duly sworn, was examined and 19 testified as follows: 20 - - - 21 EXAMINATION 22 - - - 23 BY MR. POWERS: 24 Q. Good morning.</p>	<p style="text-align: right;">Page 12</p> <p>1 deposed, 20 years ago, what was that in 2 connection with? 3 A. It was related to an alleged 4 price fixing for third parties in Baltimore, 5 Maryland. 6 Q. And were you working at Rite Aid 7 at that point? 8 A. I was. 9 Q. And were you a fact witness 10 during that deposition? 11 A. I was. 12 Q. What was the subject of your 13 testimony for that deposition? 14 A. That there was no collusion as 15 far as not taking a third-party plan. 16 Q. You also mentioned that you were 17 deposed ten years ago. 18 What was that in connection with? 19 A. That was in connection with a 20 doctor. 21 Q. Do you remember the doctor's 22 name? 23 A. I do not. 24 Q. When you say in connection with a</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Good morning. 2 Q. My name is Will Powers and I 3 represent the plaintiffs in this litigation. 4 Can you please state your full 5 name and spell it for the record? 6 A. Sure. Janet Getzey Hart. 7 J-A-N-E-T, Getzey, G-E-T-Z-E-Y, last name Hart, 8 H-A-R-T. 9 Q. And we are here for your 10 deposition today. 11 Do you understand that? 12 A. I do. 13 Q. Have you ever been deposed 14 before? 15 A. I have. 16 Q. When was that? 17 A. 20 years ago. 18 Q. Was that the only time you've 19 been deposed? 20 A. I've been deposed twice. 21 Q. What was the other time you were 22 deposed? 23 A. Probably ten years ago. 24 Q. And the first time you were</p>	<p style="text-align: right;">Page 13</p> <p>1 doctor, what do you mean? 2 A. I believe there was an action 3 against a doctor and I was deposed in that 4 action. 5 Q. Why were you deposed? 6 A. Because I worked for Rite Aid and 7 they had dispensed prescriptions for the doctor. 8 MS. McENROE: And, Janet, just 9 let him finish his questions before you 10 answer. 11 THE WITNESS: Oh, okay. 12 MS. McENROE: Take your time. 13 THE WITNESS: Sorry. 14 BY MR. POWERS: 15 Q. Do you know where that doctor was 16 operating? 17 A. The deposition was in Harrisburg. 18 That's all I remember. 19 Q. You don't recall where the doctor 20 was actually writing the prescriptions from? 21 A. I do not. 22 Q. Do you know which Rite Aid stores 23 were dispensing those prescriptions? 24 A. I do not.</p>

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1 Q. And your counsel just informed
2 you about one of the rules today. I just want to
3 go over a couple others.

4 Is that all right?

5 A. Certainly.

6 Q. Because the court reporter is
7 here writing down everything that we're saying,
8 it's important that only one person is speaking
9 at a time. So as you've been going back and
10 forth here, you obviously can anticipate some of
11 my questions, but I just ask you to allow me to
12 finish my question fully before you start your
13 answer.

14 Is that okay?

15 A. Perfect.

16 Q. And then likewise, I'll let you
17 finish your answer before I ask my questions.

18 Does that sound okay?

19 A. Perfect.

20 Q. And the other thing, too, is I
21 need verbal answers. So no nods of the heads,
22 uh-huhs, uh-uhs, things like that.

23 Does that make sense?

24 A. Yes.

Page 15

1 Q. And if for any reason you do not
2 understand a question and require some
3 clarification or explanation of the words I'm
4 using, you must tell me and we'll get that matter
5 resolved before you answer the question.

6 Is that okay?

7 A. Yes.

8 Q. So then if you answer any of my
9 questions, I will assume that you understand it.

10 Is that okay?

11 A. Yes.

12 Q. Are you currently suffering from
13 any medical disease or illness that in any way
14 interferes with your ability to answer truthfully
15 and completely my questions here today?

16 A. No.

17 Q. Are you currently taking any
18 medication or drugs that may in any way interfere
19 with your ability to answer truthfully and
20 completely here today?

21 A. No.

22 Q. And the court reporter just swore
23 you in, so do you understand that the testimony
24 you give here today is under oath, just as it

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1 would be in a courtroom?

2 A. I do.

3 Q. So because you're under oath, if
4 you lie or provide intentionally misleading
5 answers, you may be subject to civil or criminal
6 penalties.

7 Do you understand that?

8 MS. McENROE: Objection to form.

9 THE WITNESS: I do.

10 BY MR. POWERS:

11 Q. And we can take breaks when you
12 need them, but you have to answer the question if
13 there is one pending.

14 Is that okay?

15 A. That's fine.

16 Q. And as your counsel just did a
17 minute ago, your counsel from time to time may
18 object to my questions, but I'm still entitled to
19 an answer unless your counsel specifically
20 instructs you not to answer.

21 Do you understand that?

22 A. I do.

23 Q. Did you prepare for this
24 deposition here today?

Page 17

1 A. I did.

2 Q. How did you do that?

3 A. I met with outside counsel to go
4 over some documents and to discuss Rite Aid's
5 policies, procedures, things along those lines.

6 Q. And when you say outside counsel,
7 you're referring to Morgan Lewis counsel?

8 A. I am.

9 Q. When did you meet with Morgan
10 Lewis counsel?

11 A. I have met with them various
12 times over the past several months.

13 Q. About how many times?

14 A. Perhaps six.

15 Q. On average, how long were those
16 meetings you had with outside counsel?

17 A. Some were three to four hours.
18 Some were a complete day.

19 Q. I want to start with your
20 educational background, Ms. Hart.

21 Actually, before I continue, is
22 it Ms. Hart or Ms. Getzey Hart?

23 A. Ms. Hart is fine.

24 Q. Okay. Did you complete high

Page 18

1 school?
 2 A. I did.
 3 Q. Where did you complete high
 4 school?
 5 A. Greater Johnstown Vocational and
 6 Technical High School in Johnstown, Pennsylvania.
 7 Q. And what year did you graduate
 8 from high school?
 9 A. 1979.
 10 Q. Just let me -- I know you can
 11 anticipate my question, but just can you please
 12 let me finish my question --
 13 A. I'm sorry.
 14 Q. -- and then you can answer the
 15 question.
 16 It's okay.
 17 So just to be clear, what year
 18 did you graduate high school?
 19 A. 1979.
 20 Q. Do you have any education beyond
 21 high school?
 22 A. I do.
 23 Q. What is that education?
 24 A. It is a BS in pharmacy.

Page 19

1 Q. Where did you get your BS in
 2 pharmacy?
 3 A. Duquesne University.
 4 Q. And where is that located?
 5 A. Pittsburgh, Pennsylvania.
 6 Q. What year did you graduate
 7 Duquesne University?
 8 A. 1984.
 9 Q. Besides your college education,
 10 do you have any other educational background?
 11 A. I do not.
 12 Q. Do you have any certifications of
 13 any kind?
 14 A. I am a pharmacist.
 15 Q. What does that mean, that you're
 16 a pharmacist?
 17 A. It means I'm registered with the
 18 state of Pennsylvania as a pharmacist.
 19 Q. Is that registration current?
 20 A. Yes.
 21 Q. When did you get that? When did
 22 you first get that registration as a pharmacist?
 23 A. 1984.
 24 Q. Have you kept your registration

Page 20

1 as a pharmacist up to date and current between
 2 1984 and now?
 3 A. Yes.
 4 Q. I believe you said you're
 5 registered in Pennsylvania. Right?
 6 A. (Witness nods head.)
 7 Q. Are you registered as a
 8 pharmacist in any other states?
 9 A. New Jersey.
 10 MS. McENROE: Again, just a
 11 reminder to respond verbally. So that
 12 first answer had been yes.
 13 THE WITNESS: Okay.
 14 BY MR. POWERS:
 15 Q. So you're registered as a
 16 pharmacist in Pennsylvania and New Jersey; is
 17 that correct?
 18 A. That is correct.
 19 Q. Any other states?
 20 A. No.
 21 Q. When did you first become
 22 registered as a pharmacist in New Jersey?
 23 A. Probably two years after
 24 Pennsylvania.

Page 21

1 Q. And are you currently still
 2 registered as a pharmacist in New Jersey?
 3 A. I am.
 4 Q. So from about 1986 to present,
 5 you were registered as a pharmacist in New
 6 Jersey; is that right?
 7 A. That sounds about right.
 8 Q. No breaks for that registration?
 9 A. No breaks.
 10 Q. After graduation from college in
 11 1984, did you start working at Rite Aid at that
 12 point?
 13 A. I did.
 14 Q. Are you still currently employed
 15 by Rite Aid?
 16 A. I am.
 17 Q. Have you been employed by Rite
 18 Aid the entire time, from 1984 until present?
 19 A. I have.
 20 Q. When you started working at Rite
 21 Aid in 1984, what was your position?
 22 A. I was a pharmacy intern.
 23 Q. As a pharmacy intern, where did
 24 you work?

<p style="text-align: right;">Page 22</p> <p>1 A. Johnstown, Pennsylvania.</p> <p>2 Q. How long were you a pharmacy</p> <p>3 intern for?</p> <p>4 A. Approximately four months.</p> <p>5 Q. After your position as a pharmacy</p> <p>6 intern, what was your next title?</p> <p>7 A. Pharmacist.</p> <p>8 Q. Now, was that also located in</p> <p>9 Johnstown, Pennsylvania?</p> <p>10 A. It was.</p> <p>11 Q. And when you say located in</p> <p>12 Johnstown, Pennsylvania, is that the Rite Aid</p> <p>13 corporate offices?</p> <p>14 A. It is not. It's a retail</p> <p>15 pharmacy location.</p> <p>16 Q. Approximately how long were you a</p> <p>17 pharmacist for at Rite Aid?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: At the Johnstown</p> <p>20 store, about six months.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Where did you go after that?</p> <p>23 A. I became a floater pharmacist and</p> <p>24 worked at various Rite Aid pharmacy locations in</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Where was that location where</p> <p>2 you --</p> <p>3 A. Johnstown.</p> <p>4 Q. Sorry.</p> <p>5 A. Oh, I'm sorry.</p> <p>6 Q. What was the location where you</p> <p>7 were a pharmacy manager?</p> <p>8 A. Johnstown.</p> <p>9 Q. Did you have any other</p> <p>10 responsibilities besides the profitability while</p> <p>11 you were a pharmacy manager?</p> <p>12 A. The responsibilities were to</p> <p>13 dispense prescriptions, payroll, just running the</p> <p>14 basic business of the pharmacy.</p> <p>15 Q. After your year as a pharmacy</p> <p>16 manager, what was your next position at Rite Aid?</p> <p>17 A. I remained a pharmacist. But</p> <p>18 then at that particular time, Rite Aid was</p> <p>19 purchasing some stores, another drugstore chain,</p> <p>20 Gray Drug. And so after that I went out of the</p> <p>21 pharmacy and was a training pharmacist as new</p> <p>22 pharmacists were coming on board from the</p> <p>23 acquisition.</p> <p>24 Q. So this would have been around</p>
<p style="text-align: right;">Page 23</p> <p>1 the general area.</p> <p>2 Q. You say -- when you say the</p> <p>3 general area, what do you mean by that?</p> <p>4 A. Around Johnstown.</p> <p>5 Q. How long were you a floater</p> <p>6 pharmacist for?</p> <p>7 A. Approximately two years.</p> <p>8 Q. So that would be about 1986 you</p> <p>9 stopped being a floater pharmacist?</p> <p>10 A. That sounds correct.</p> <p>11 Q. After a floater pharmacist, what</p> <p>12 was your next position at Rite Aid?</p> <p>13 A. I was a pharmacy manager.</p> <p>14 Q. How long were you a pharmacy</p> <p>15 manager for?</p> <p>16 A. Approximately one year.</p> <p>17 Q. What were your job</p> <p>18 responsibilities as a pharmacy manager?</p> <p>19 A. I was responsible for the</p> <p>20 profitability of that particular pharmacy.</p> <p>21 Q. When you say that particular</p> <p>22 pharmacy, are you referring to a Rite Aid retail</p> <p>23 pharmacy location?</p> <p>24 A. I am.</p>	<p style="text-align: right;">Page 25</p> <p>1 1987 that you became a training pharmacist?</p> <p>2 A. That sounds correct.</p> <p>3 Q. How long did you hold the</p> <p>4 position as training pharmacist?</p> <p>5 A. Probably eight months.</p> <p>6 Q. And you said there was a</p> <p>7 acquisition that Rite Aid made around that time.</p> <p>8 Correct?</p> <p>9 A. Correct.</p> <p>10 Q. And the name of the other</p> <p>11 business that Rite Aid acquired was Gray Drug, do</p> <p>12 I have that correct?</p> <p>13 A. Gray Drug, yes.</p> <p>14 Q. So it was your job while you were</p> <p>15 a training pharmacist to go around to the Gray</p> <p>16 Drug locations and train them on Rite Aid</p> <p>17 procedures.</p> <p>18 Do I have that correct?</p> <p>19 A. Yes. On procedures and the</p> <p>20 computer system.</p> <p>21 Q. And was that also around the</p> <p>22 Johnstown, Pennsylvania area?</p> <p>23 A. That was actually throughout the</p> <p>24 country.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. After your time as a training 2 pharmacist, what was your next position at Rite 3 Aid? 4 A. I moved to Baltimore to become a 5 pharmacy manager. 6 Q. So that would have been around 7 1988 when you moved to Baltimore? 8 A. That sounds correct. 9 Q. And was that position as a 10 pharmacy manager also for a retail location? 11 A. It was. 12 Q. Were your job responsibilities 13 the same as your previous stint as a pharmacy 14 manager in Johnstown, Pennsylvania? 15 A. They were. 16 Q. How long were you the pharmacy 17 manager in Baltimore? 18 A. Approximately two years. 19 Q. After being a pharmacy manager in 20 Baltimore, what was your next job at Rite Aid? 21 A. I got promoted to be a pharmacy 22 district manager. 23 Q. And that would have been around 24 1990?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. So that would have been around 2 1992 to 1993. Right? 3 A. Correct. 4 Q. What did you do as the director 5 of professional placement? 6 A. I was responsible for going to 7 schools of pharmacy and recruiting pharmacy 8 students to come to work for Rite Aid. And I was 9 responsible for putting together training 10 programs for the region. 11 Q. When you say the region, what 12 region are you referring to? 13 A. Baltimore metro market. 14 Q. After your year as the director 15 of professional placement, what was your next 16 position at Rite Aid? 17 A. Pharmacy division manager. 18 Q. How long were you a pharmacy 19 division manager for? 20 A. Two years. 21 Q. So that would be approximately 22 1993 through 1995? 23 A. That is correct. 24 Q. And what were your job</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Yes. 2 Q. How long were you a pharmacy 3 district manager for? 4 A. Approximately two years. 5 Q. Was that also in Baltimore, 6 Maryland? 7 A. It was. 8 Q. What were your responsibilities 9 as a pharmacy district manager? 10 A. Similar to that as a pharmacy 11 manager, the pharmacy district manager was 12 responsible for anywhere between 25 to 30 stores, 13 as far as staffing, training, profitability. 14 Q. And the 25 to 30 stores that you 15 were responsible for, were those all in the 16 Maryland area? 17 A. Yes. 18 Q. What was your next position after 19 pharmacy district manager? 20 A. Director of professional 21 placement. 22 Q. How long were you the director of 23 professional placement? 24 A. For approximately a year.</p>	<p style="text-align: right;">Page 29</p> <p>1 responsibilities as a pharmacy division manager? 2 A. Similar to the pharmacy manager 3 and the pharmacy district manager. I was 4 responsible for the profitability and operations 5 of approximately 150 Rite Aid pharmacies in the 6 Baltimore metro market. 7 Q. After your time as the pharmacy 8 division manager, what was your next position at 9 Rite Aid? 10 A. I moved -- I got promoted into 11 the corporate office, and I became a manager of 12 government affairs. 13 Q. And that would have been around 14 1995? 15 A. Correct. 16 Q. Now, when you say the corporate 17 office, are you referring to the Rite Aid offices 18 in Camp Hill, Pennsylvania? 19 A. I am. 20 Q. Were you physically located 21 starting in 1995 in the offices in Camp Hill, 22 Pennsylvania? 23 A. I believe I moved to Camp Hill in 24 1996.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. When you moved to Camp Hill, it 2 was for the position that you just described, the 3 manager of government affairs. Right? 4 A. It was. 5 Q. What were your job 6 responsibilities as a manager of government 7 affairs? 8 A. I was responsible for varying -- 9 many times varying number of states to follow 10 regulatory and legislation concerning anything 11 that would impact the Rite Aid book of business. 12 I was responsible for compliance with DEA rules 13 and regulations. And I was responsible for 14 prescription drug monitoring programs and 15 submitting data to a limited number of programs 16 that were there in 1995. 17 Q. How long were you the manager of 18 government affairs? 19 A. From 1995 to 2006. 20 Q. In that time period from 1995 to 21 2006, who was your supervisor? 22 A. James Krahulec. 23 Q. Can you spell that last name, 24 please?</p>	<p style="text-align: right;">Page 32</p> <p>1 there was someone that needed to go before a 2 Senate committee or something like that, they 3 would ask me to go and to provide testimony or to 4 speak on behalf of Rite Aid. And so having done 5 that a number of times in my previous capacity, 6 the opportunity came up for the additional 7 position in the Rite Aid corporate headquarters, 8 so that's when they promoted me into that 9 position. 10 And then after that, it was 11 really hands-on training with the individuals at 12 the corporate office. 13 Q. Who were some of the individuals 14 who you did the hands-on training with? 15 A. Mike Podgurski. 16 Q. Anyone else? 17 A. I'm trying to think who else was 18 there at that time. 19 It was pretty much Mike and -- 20 Mike and Jim. 21 Q. When you say Jim, that's James 22 Krahulec? 23 A. (Witness nods head.) 24 MS. McENROE: Is that a yes?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. K-R-A-H-U-L-E-C. 2 Q. Was there anyone else in the 3 government affairs division at Rite Aid during 4 that time period, 1995 to 2006? 5 A. Can you repeat the question? 6 Q. Sure. 7 Was anyone else in the government 8 affairs division, let's say, of Rite Aid between 9 that period, 1995 to 2006? 10 A. We had like an administrative 11 staff, but during that time it was Mr. Krahulec 12 and myself. 13 Q. Who was the administrative staff? 14 A. Deb Hurley. 15 Q. Can you spell the last name? 16 A. H-U-R-L-E-Y. 17 Q. How did you train for your job as 18 manager of government affairs? 19 A. Well, in my capacity as the 20 pharmacy regional person in Baltimore, I had the 21 opportunity at that time to go and testify in 22 Annapolis, meet with legislators. Mr. Krahulec 23 obviously was only one person and couldn't be at 24 that time in approximately 15 states. And so if</p>	<p style="text-align: right;">Page 33</p> <p>1 THE WITNESS: Yes. 2 MR. POWERS: Sorry. Yeah, thank 3 you. 4 BY MR. POWERS: 5 Q. And what was Mike Podgurski's 6 title? 7 A. I don't know what his title was 8 at that time. He's had a lot of titles, I don't 9 know what it was specifically at that time. 10 Q. We've been talking about the 11 government affairs division. 12 What division did Mike Podgurski 13 work in? 14 A. More pharmacy ops. 15 Q. And I'm using the word 16 "division." 17 Is that the correct term or 18 department or is there a better term in how Rite 19 Aid describes the organizational structure? 20 A. It's government affairs 21 department. It's very small. 22 Q. Okay. So it's department, I 23 guess? 24 A. Yeah.</p>

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1 Q. Okay. How does the government
2 affairs department fit into the larger
3 organizational structure of the Rite Aid
4 corporate office?

5 MS. McENROE: Objection to form.

6 THE WITNESS: We monitor
7 legislation and then provide updates to
8 the corporate departments that are
9 involved. If it's a tax issue, we would
10 forward the legislation to the tax
11 department. If it was a pharmacy issue,
12 we would forward it to the pharmacy
13 department. We also had control or
14 looked over DEA rules and regulations.
15 And if there was a question concerning,
16 you know, a DEA rule or regulations,
17 pharmacy operations or the other
18 departments would come and ask us
19 questions or ask us to investigate and
20 provide an answer back to them.

21 BY MR. POWERS:

22 Q. For DEA issues, you mentioned the
23 pharmacy departments.

24 Any other departments you worked

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1 with on DEA issues?

2 A. Logistics.

3 Q. And who did you work with in the
4 logistics department?

5 A. I don't remember who was in
6 logistics back then.

7 Q. Besides logistics and pharmacy,
8 any other departments you worked with on DEA
9 issues for your time period '95 through 2006?

10 A. I think that's it.

11 Q. Anyone else besides the pharmacy
12 department, besides Mike Podgurski that you
13 worked with?

14 A. There were various individuals in
15 the various -- in that department that I would
16 work with.

17 Q. Can you name the ones you
18 remember?

19 A. Sure. Scott Jacobson.

20 Q. Do you remember Scott Jacobson's
21 title?

22 A. VP pharmacy operations.

23 Q. Anyone else?

24 A. Not at this time.

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1 Q. You also mentioned before that
2 you gave testimony, I believe you said, to
3 governmental organizations; is that correct?

4 A. That is correct.

5 Q. What test -- can you give me some
6 examples of the testimony that you gave?

7 A. Certainly. There were pieces of
8 legislation to -- where there was going to be a
9 reimbursement cut to Medicaid where the
10 dispensing fee was going to be reduced. And we
11 obviously, from a business perspective, we did
12 not want that to occur, so we would testify in
13 order to maintain the dispensing fee.

14 Q. Did you give testimony to state
15 government agencies?

16 A. I did.

17 Q. What were the state government
18 agencies that you testified to?

19 A. I've testified before the
20 Maryland General Assembly, or a subcommittee of
21 the assembly.

22 Q. Anywhere else besides the
23 Maryland General Assembly?

24 A. The Pennsylvania General

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1 Assembly.

2 Q. Anywhere else?

3 A. Maine.

4 Q. Anywhere else?

5 A. Vermont.

6 Q. Anywhere else?

7 A. Those are the ones that I can
8 recall.

9 Q. Did you ever testify about DEA
10 compliance issues before any of the state bodies
11 that you just named?

12 MS. McENROE: Objection to form.

13 THE WITNESS: For the time period
14 when I was a manager of government
15 affairs, not that I remember.

16 BY MR. POWERS:

17 Q. Did you ever testify before
18 federal agencies during the time period of 1995
19 through 2006?

20 A. I did not.

21 Q. Have you ever testified before
22 federal agencies during your entire time at Rite
23 Aid?

24 A. I believe no.

<p style="text-align: right;">Page 38</p> <p>1 Q. And to be clear, when I say 2 federal agencies, I'm also including legislative 3 bodies. 4 Is that okay? 5 A. That's fine. 6 Q. Does that change your answer? 7 A. No. 8 Q. What is the government affairs 9 department relationship with the distribution 10 centers? 11 MS. McENROE: Objection to form. 12 THE WITNESS: We work together. 13 BY MR. POWERS: 14 Q. Do the distribution centers 15 report to the government affairs office? 16 A. They do not. 17 Q. Was there a typical contact 18 person at each distribution center that you would 19 work with? 20 A. There were contact individuals at 21 the distribution centers. 22 Q. Did those contact individuals 23 have a particular title at the distribution 24 centers?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. How about Chris Belli, does that 2 name sound familiar to you? 3 A. Yes. 4 Q. Is that one of the people you've 5 been working with in the logistics department? 6 A. Yes. 7 Q. And are those people, Chris Belli 8 and Kevin Mitchell, the people you're referring 9 to when you say the person in charge of the DEA 10 coordinators at the logistics department? 11 A. Yes. 12 Q. So after 2006, you ceased -- your 13 title ceased to be manager of government affairs. 14 Correct? 15 A. Correct. 16 Q. What did your title become at 17 that point? 18 A. Director, government affairs. I 19 got a promotion. 20 Q. Is that your current title, 21 director of government affairs? 22 A. It is. 23 Q. Have you held the position of 24 director of government affairs continuously from</p>
<p style="text-align: right;">Page 39</p> <p>1 A. DEA coordinator. 2 Q. So is it fair to say then the 3 government affairs office would interact with the 4 DEA coordinators at each individual distribution 5 center? 6 A. I myself would interact more with 7 the person that was in charge of the DEA 8 coordinators at the corporate office. 9 Q. Who was the person in charge of 10 the DEA coordinators at the corporate office? 11 A. There was a director of 12 logistics, regulatory, something along that title 13 line. I don't know the official title. 14 Q. Would that be the logistics -- in 15 the logistics department that you talked about 16 earlier? 17 A. Yes. 18 Q. Does the name Kevin Mitchell ring 19 a bell for you? 20 A. Yes. 21 Q. Is that one of the people that 22 you would have been working with in the logistics 23 department? 24 A. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 2006 until the present? 2 A. I have. 3 Q. What happened to James Krahulec 4 when you became the director of government 5 affairs? 6 A. James Krahulec passed away in 7 2006 or so. And Mike Podgurski moved in to 8 government affairs. So from when I was a 9 director of government affairs, Mike Podgurski 10 then became my boss. 11 Q. Did that move of Mike Podgurski 12 to becoming your boss happen at the same time you 13 became director of government affairs? 14 A. Close to the same time frame, 15 yes. 16 Q. Who else was in your department 17 when you became the director of government 18 affairs? 19 A. There would have been an 20 individual, Michael Yount. 21 Q. How do you spell that last name? 22 A. Y-O-U-N-T. 23 Q. When did Mr. Yount start in the 24 government affairs department?</p>

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1 A. I don't remember.
 2 Q. Was it around the time you became
 3 the director of government affairs?
 4 A. I believe it was prior to that
 5 point.
 6 Q. So Michael Yount was part of the
 7 government affairs department before you became
 8 director of government affairs?
 9 A. Yes.
 10 Q. How long did Michael Yount work
 11 in the government affairs office?
 12 A. I don't recall.
 13 Q. Does he still work in the
 14 government affairs office?
 15 A. He does not.
 16 Q. Do you know when he left?
 17 A. I don't remember.
 18 Q. Was it more or less than ten
 19 years ago when Michael Yount left?
 20 A. It was more than ten years ago
 21 that he left.
 22 Q. How come you did not mention
 23 Michael Yount before when I asked you who else
 24 worked in the government affairs office while you

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1 were the manager of government affairs?
 2 MS. McENROE: Objection to form.
 3 THE WITNESS: I just completely
 4 forgot about Michael.
 5 BY MR. POWERS:
 6 Q. Besides Michael Yount, anyone
 7 else work in the government affairs office
 8 between '95 and present?
 9 A. Not that I remember.
 10 Q. Did Amy Knisely ever work in the
 11 government affairs department?
 12 A. Amy Knisely did, yes.
 13 Q. How come you didn't mention her
 14 when I asked who else worked in the government
 15 affairs department just now?
 16 A. You didn't specify a time frame.
 17 We were discussing until -- we were discussing
 18 the 2006. And Amy Knisely wasn't in the
 19 government affairs department in 2006.
 20 Q. My question was -- I'm reading
 21 off the transcript here, besides Michael Yount,
 22 anyone else work in the government affairs office
 23 between 1995 and the present?
 24 A. Oh, okay. Yes.

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1 Q. Who else worked in the government
 2 affairs office between 1995 and the present?
 3 A. Amy Knisely.
 4 Q. Anyone else?
 5 A. Sarah Everingham, Andrea Bucher.
 6 Q. Anyone else?
 7 A. Derrick Ridley.
 8 Q. How do you spell that last name?
 9 A. R-I-D-L-E-Y.
 10 Q. Anyone else?
 11 A. Sarah Hilbolt.
 12 Q. How do you spell that last name?
 13 A. H-I-L-B-O-L-T.
 14 Q. Anyone else?
 15 A. In government affairs was Grace
 16 Schuyler.
 17 Q. Anyone else?
 18 A. Jermaine Smith.
 19 Q. And when I say anyone else, feel
 20 free to name more than one person at a time.
 21 A. Okay.
 22 Q. Anyone else besides who you've
 23 mentioned so far?
 24 A. I'm thinking.

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1 Yong Choe.
 2 Those are to the best of my
 3 knowledge.
 4 Q. I believe you testified earlier
 5 that in -- from 1995 to 2006, the only people in
 6 the government affairs office were yourself,
 7 James Krahulec, and for some period of that time
 8 Michael Yount. Right?
 9 A. And Deb Hurley.
 10 Q. How come the government affairs
 11 office got so much bigger after 2006?
 12 MS. McENROE: Objection, form.
 13 THE WITNESS: There was the
 14 addition of additional people because the
 15 responsibilities were expanding.
 16 BY MR. POWERS:
 17 Q. Why do you say the
 18 responsibilities were expanding?
 19 A. Prior to 2006, there were a very
 20 limited number of state prescription monitoring
 21 programs. And more states kept coming onboard
 22 with prescription monitoring programs. So there
 23 was more data submission to those programs. And
 24 then error corrections, when there would be an

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1 error that was sent to the program. And that was
2 taking up increasing amounts of time.
3 There was also additional
4 heightened awareness around DEA rules and
5 regulations. Legislation was getting more
6 involved.
7 Q. During that period after 2006,
8 who in the government affairs office had
9 responsibility in any shape or form for dealing
10 with the DEA rules and regulations?
11 MS. McENROE: Objection to form.
12 THE WITNESS: That would be
13 myself.
14 BY MR. POWERS:
15 Q. Anyone else?
16 A. Yes.
17 May I make an addition to an
18 individual in government affairs?
19 Q. Sure.
20 A. I don't believe I mentioned
21 Andrea Bucher.
22 Q. Okay. Anyone else besides
23 yourself in the government affairs office that
24 dealt with DEA's rules and regulations?

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1 A. Since then?
2 Q. Since 2006.
3 A. Amanda Glover.
4 Q. Was she also in the government
5 affairs office?
6 A. She is in regulatory affairs, but
7 she dealt with DEA.
8 Q. Anyone else besides Amanda
9 Glover?
10 A. Mike Podgurski.
11 Q. But he's not in government
12 affairs. Right?
13 A. No. Mike was in government
14 affairs.
15 Q. Oh, okay.
16 A. He was in operations prior to
17 2006.
18 Grace Schuyler.
19 Q. Anybody else?
20 A. Not that I remember at this time.
21 Q. And you mentioned, was it Amanda
22 Glover?
23 A. Yes.
24 Q. That she was in the regulatory

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1 affairs department. Right?
2 A. Yes.
3 Q. Is that a separate department
4 from government affairs?
5 A. Yes.
6 Q. Did you ever work with other
7 people from the regulatory affairs department
8 while you were the director of government
9 affairs?
10 A. Yes.
11 Q. Who else from regulatory affairs
12 did you interact with?
13 A. Zach Hicks.
14 Q. Can you spell that?
15 A. H-I-C-K-S.
16 Q. Anyone else?
17 A. Greg Mills. That's it.
18 Q. Do you know who the director of
19 the regulatory affairs office was during this
20 time period, starting in 2006?
21 A. There was no regulatory affairs
22 department in 2006. I think why there's some
23 confusion here is what happened was government
24 affairs split off from regulatory affairs

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1 approximately two years ago. And so that's why
2 there's some confusion as far as the individuals
3 and where they worked, because what happened is,
4 even though I still maintained the title of
5 government affairs, I'm in regulatory affairs.
6 So that may be adding to the confusion.
7 Q. Okay. Just so I have this
8 correctly here, the department was the department
9 of government affairs from 1995 up until about
10 2017?
11 A. There still is a department of
12 government legislative and regulatory, but --
13 from following that. But there's a regulatory --
14 department of reg -- a department of regulatory
15 affairs as well. So you still -- you have two
16 now.
17 Q. Okay. So from 1995 until
18 current, there was a department of government and
19 regulatory affairs. Right?
20 A. (Witness nods head.)
21 Yes.
22 Q. And then approximately two years
23 ago, around 2017, there's a separate department
24 named regulatory affairs?

<p style="text-align: right;">Page 50</p> <p>1 A. Correct.</p> <p>2 Q. Okay. Why was the regulatory</p> <p>3 affairs department created in 2017?</p> <p>4 A. There was heightened awareness on</p> <p>5 many regulatory affairs issues, such as DEA,</p> <p>6 HIPAA, and so the decision was made to create a</p> <p>7 department.</p> <p>8 Q. Who was the person in charge of</p> <p>9 the regulatory affairs office starting in 2017?</p> <p>10 A. Amanda Glover.</p> <p>11 Q. And she would have been</p> <p>12 previously employed in the government affairs and</p> <p>13 regulatory affairs department prior to 2017; is</p> <p>14 that right?</p> <p>15 A. She was not.</p> <p>16 Q. Do you know where she was before?</p> <p>17 A. Pharmacy operations, I believe.</p> <p>18 Q. How did your job responsibilities</p> <p>19 as the director of government affairs change when</p> <p>20 the new regulatory affairs department was</p> <p>21 created?</p> <p>22 A. I had less responsibilities for</p> <p>23 state legislative and regulatory following</p> <p>24 legislation than I had previously. I had bumped</p>	<p style="text-align: right;">Page 52</p> <p>1 charge of legislative and regulatory for?</p> <p>2 A. Maryland and Delaware.</p> <p>3 Q. When you say in charge of</p> <p>4 legislative and regulatory, what do you mean by</p> <p>5 that?</p> <p>6 A. I mean follow any legislation</p> <p>7 that impacts Rite Aid's book of business and then</p> <p>8 provide that information to the various</p> <p>9 departments that would be impacted by the</p> <p>10 legislation or the regulation, work with groups</p> <p>11 to put forth a response to the legislation,</p> <p>12 provide comments, anything that needed to be done</p> <p>13 related to those issues.</p> <p>14 Q. And you also mentioned that you</p> <p>15 had responsibility for prescription monitoring</p> <p>16 programs.</p> <p>17 Can you explain that?</p> <p>18 A. Certainly. In each state that</p> <p>19 Rite Aid does business, we're required by law to</p> <p>20 report any controlled substance data for</p> <p>21 prescriptions that we dispense to the state. In</p> <p>22 each state, we send the data on a daily basis.</p> <p>23 And then what happens is we get errors back,</p> <p>24 where the stores will say put a symbol in the</p>
<p style="text-align: right;">Page 51</p> <p>1 up and down between the number of states that I</p> <p>2 covered. And I went down to two states to cover</p> <p>3 because of the other increasing responsibilities.</p> <p>4 Q. What were your increasing</p> <p>5 responsibilities?</p> <p>6 A. DEA compliance, prescription</p> <p>7 monitoring program compliance.</p> <p>8 Q. You started talking a little bit</p> <p>9 about it there, but as the director of government</p> <p>10 affairs between 2006 and 2017, what were your job</p> <p>11 responsibilities?</p> <p>12 A. Similar to my responsibilities as</p> <p>13 manager of government affairs.</p> <p>14 Q. Can you explain what you mean by</p> <p>15 that?</p> <p>16 A. Sure. I did the same thing,</p> <p>17 pretty much. I was in charge of DEA compliance</p> <p>18 as far as providing information, questions to the</p> <p>19 various departments throughout the company. I</p> <p>20 was responsible for prescription monitoring</p> <p>21 programs. And I was responsible for legislative</p> <p>22 and regulatory for two states. At present, I'm</p> <p>23 down to one state.</p> <p>24 Q. What two states were you in</p>	<p style="text-align: right;">Page 53</p> <p>1 name. They'll say -- it's a K9 and they put</p> <p>2 parentheses around the K9, so that comes back as</p> <p>3 an error. And then we're responsible for</p> <p>4 correcting that and sending it back to the</p> <p>5 prescription monitoring program.</p> <p>6 We need to stay up on all of the</p> <p>7 different formats and all of the different</p> <p>8 standards related to the prescription monitoring</p> <p>9 program so that we stay in compliance, because</p> <p>10 there are significant fines associated with it if</p> <p>11 we're not in compliance.</p> <p>12 Q. Are you talking about the</p> <p>13 prescription monitoring programs, are those</p> <p>14 particular prescription monitoring programs in</p> <p>15 each state?</p> <p>16 A. Yes, they're in each state.</p> <p>17 Q. And the prescription monitoring</p> <p>18 programs, are they different in each state?</p> <p>19 A. They are.</p> <p>20 Q. Do the prescription monitoring</p> <p>21 programs have anything to do with Rite Aid's role</p> <p>22 as a distributor of controlled substances?</p> <p>23 MS. McENROE: Objection, form.</p> <p>24 THE WITNESS: There are certain</p>

<p style="text-align: right;">Page 54</p> <p>1 states that require distributor data to</p> <p>2 be sent to them.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. You also mentioned that as</p> <p>5 director of government affairs that you were in</p> <p>6 charge of DEA compliance.</p> <p>7 Can you explain what you mean by</p> <p>8 that?</p> <p>9 A. Certainly. If there was a DEA</p> <p>10 question or a new DEA rule or regulation that</p> <p>11 came up, it's my job to communicate that to store</p> <p>12 operations; to logistics, if it involves</p> <p>13 transporting drugs; to provide, you know,</p> <p>14 guidance into policies and procedures as far as</p> <p>15 compliance with DEA rules and regulations.</p> <p>16 Q. You said it's your job to</p> <p>17 communicate the DEA compliance issues.</p> <p>18 How would you communicate to the</p> <p>19 other Rite Aid employees?</p> <p>20 A. If there was a proposed piece of</p> <p>21 legislation, I would either forward an email to</p> <p>22 the individuals that are in the correct</p> <p>23 department. We could possibly have a discussion</p> <p>24 about the proposed regulation to determine how it</p>	<p style="text-align: right;">Page 56</p> <p>1 VP of operations or the VP of logistics, was that</p> <p>2 just communicate via email?</p> <p>3 A. Email typically, yes. And then</p> <p>4 typically what would happen is they would read it</p> <p>5 and call me back and then we'd start a</p> <p>6 discussion.</p> <p>7 Q. We've been talking about new</p> <p>8 rules and regulations.</p> <p>9 How do you communicate</p> <p>10 long-standing rules and regulations regarding DEA</p> <p>11 compliance?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: We do that in a</p> <p>14 number of ways. We have DEA reminder</p> <p>15 messages that we send to all of our</p> <p>16 stores on a weekly basis. Those messages</p> <p>17 include compliance with CSA and the CFR,</p> <p>18 where they are how to execute an order</p> <p>19 form, things along those lines.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. How are those DEA reminder</p> <p>22 messages sent to the stores?</p> <p>23 A. They are sent in what we call a</p> <p>24 management planner.</p>
<p style="text-align: right;">Page 55</p> <p>1 would impact the Rite Aid book of business.</p> <p>2 Q. So besides emailing the</p> <p>3 appropriate people and having discussions, did</p> <p>4 you do anything else to communicate new rules and</p> <p>5 regulations?</p> <p>6 A. I mean, we might have a meeting,</p> <p>7 a meeting as such to discuss it and determine</p> <p>8 what our action plan would be.</p> <p>9 And then we could -- we would</p> <p>10 have an email communication as far as rolling it</p> <p>11 out to the stores and what we were going to</p> <p>12 communicate to stores to do to be compliant. So</p> <p>13 that was all a part of the process.</p> <p>14 Q. Was there any standard procedure</p> <p>15 about how to communicate a new DEA rule or</p> <p>16 regulation?</p> <p>17 A. The standard procedure for myself</p> <p>18 is to communicate it to our VP of pharmacy</p> <p>19 operations. If it was logistics, the VP of</p> <p>20 logistics. Anybody that was involved in that</p> <p>21 particular matter would be communicated on so</p> <p>22 that they were aware of pending or then passed</p> <p>23 legislation.</p> <p>24 Q. When you say communicated to the</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. What is a management planner?</p> <p>2 A. It's a weekly message board that</p> <p>3 goes out to all of our pharmacies.</p> <p>4 Q. Is this an electronic system?</p> <p>5 A. Yes.</p> <p>6 Q. Who would have access to that</p> <p>7 electronic system?</p> <p>8 A. The pharmacist, our field</p> <p>9 management, people in corporate.</p> <p>10 Q. You've been talking about</p> <p>11 communicating with the stores.</p> <p>12 How about DEA policies and</p> <p>13 procedures related to distribution, how did you</p> <p>14 communicate those?</p> <p>15 A. DEA with -- for distribution,</p> <p>16 would go to the VP of logistics. And then</p> <p>17 they're individuals during that time period that</p> <p>18 we mentioned, Kevin Mitchell, Chris Belli,</p> <p>19 communication would go to them if there was</p> <p>20 something impacting the distribution centers.</p> <p>21 Q. And those communications would</p> <p>22 also be just via email?</p> <p>23 A. Typically, yes.</p> <p>24 Q. Any other ways besides email?</p>

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1 A. Normal communications. Their
 2 offices are not too -- their office was not too
 3 far from mine, so we would have conversations.
 4 Q. You mean just like walk down to
 5 their office?
 6 A. Yep.
 7 Q. How did you communicate existing
 8 or long-standing DEA regulations regarding
 9 distribution of controlled substances?
 10 MS. McENROE: Objection to form.
 11 THE WITNESS: I didn't
 12 communicate to the distribution centers.
 13 That responsibility would have been on
 14 Chris or Kevin Mitchell, depending on the
 15 time. But I was not directly
 16 communicating to the distribution
 17 centers.
 18 BY MR. POWERS:
 19 Q. How did you communicate existing
 20 DEA rules and regulations to either Chris Belli
 21 or Kevin Mitchell?
 22 A. I don't know that I did that on a
 23 routine basis. I believe they were very well
 24 versed in existing DEA rules and regulations.

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1 Q. You also mentioned that it was
 2 your job to formulate guidance as to the policies
 3 and procedures regarding DEA compliance; is that
 4 right?
 5 A. That is correct.
 6 Q. How did you formulate the
 7 guidance?
 8 A. I would look at a regulation
 9 and/or a proposed rule and say, how would this
 10 impact Rite Aid. And then if there was a certain
 11 action plan that I thought would work as far as
 12 rolling out the guidance, then I would put a
 13 communication together and say, hello, this is
 14 the new DEA regulation and this is how I feel we
 15 should do something with it.
 16 Q. What did you rely on when you
 17 were formulating the guidance?
 18 A. The -- what had been proposed or
 19 what had come out, the industry information that
 20 it was out there, and my own knowledge.
 21 Q. Did you ever consult anyone else
 22 within Rite Aid about formulating guidance
 23 regarding DEA regulations?
 24 A. Certainly.

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1 Q. Who?
 2 A. Amanda Glover.
 3 Q. Anyone else?
 4 A. Mike Podgurski, Zach Hicks, Greg
 5 Mills.
 6 Q. Anyone else?
 7 A. Scott Jacobson.
 8 Q. Did you ever consult anyone
 9 outside of Rite Aid when you were formulating
 10 guidance on DEA regulations?
 11 A. Occasionally.
 12 Q. Who?
 13 A. We had outside counsel at one
 14 point, Hyman, Phelps & McNamara.
 15 Q. When was that, when you had
 16 Hyman, Phelps & McNamara help you with
 17 formulating DEA guidance?
 18 A. 2010 and back.
 19 Q. You say and back, do you mean
 20 before 2010?
 21 A. Yes, yes. And that could give or
 22 take. That was just pretty much when we stopped
 23 communicating. But we still sent communications
 24 to them, but not like asking questions or

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1 whatever.
 2 Q. Do you know approximately when
 3 you started using Hyman, Phelps & McNamara for
 4 guidance -- excuse me, to formulate guidance on
 5 DEA regulations?
 6 A. I don't remember.
 7 Q. Can you give me an approximate
 8 date?
 9 A. At least 2000.
 10 Q. And who would you talk to at
 11 Hyman, Phelps & McNamara about DEA regulations?
 12 A. Karla Palmer.
 13 Q. Anyone else?
 14 A. Larry Houck.
 15 Q. Can you spell that last name?
 16 A. H-O-U-C-K.
 17 Q. Anyone else besides Karla Palmer
 18 and Larry Houck?
 19 A. John Gilbert.
 20 Q. Anyone else?
 21 A. Those were the three main
 22 individuals.
 23 Q. How did you communicate with
 24 Hyman, Phelps & McNamara?

<p style="text-align: right;">Page 62</p> <p>1 A. Either email or a phone call.</p> <p>2 Q. And you mentioned there was some</p> <p>3 communication with Hyman, Phelps & McNamara after</p> <p>4 2010. Right?</p> <p>5 A. There is, yes.</p> <p>6 Q. What was the nature of that</p> <p>7 communication after 2010?</p> <p>8 MS. McENROE: Objection, calls</p> <p>9 for privileged information. I instruct</p> <p>10 the witness not to answer.</p> <p>11 Do you have a more specific</p> <p>12 question not seeking privileged</p> <p>13 information? The word "nature" is not</p> <p>14 specific to not seek privileged</p> <p>15 communications.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. After 2010, how did your -- or</p> <p>18 how did Rite Aid's relationship with Hyman,</p> <p>19 Phelps & McNamara change?</p> <p>20 A. I would occasionally call them to</p> <p>21 ask them a question. I also communicate with</p> <p>22 Karla Palmer in the instance where there is a</p> <p>23 prescriber --</p> <p>24 MS. McENROE: Hold on -- nothing</p>	<p style="text-align: right;">Page 64</p> <p>1 about an hour anyway.</p> <p>2 MR. POWERS: Sure. That's fine.</p> <p>3 THE VIDEOGRAPHER: Going off the</p> <p>4 record at 10:30 a.m.</p> <p>5 - - -</p> <p>6 (A recess was taken from</p> <p>7 10:30 a.m. to 10:44 a.m.)</p> <p>8 - - -</p> <p>9 THE VIDEOGRAPHER: We're back on</p> <p>10 the record at 10:44 a.m.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. Welcome back, Ms. Hart.</p> <p>13 Before we took the break, we were</p> <p>14 talking about a settlement agreement that Rite</p> <p>15 Aid had had.</p> <p>16 Can you explain what that</p> <p>17 settlement agreement was?</p> <p>18 A. Rite Aid entered into a</p> <p>19 settlement agreement with the Drug Enforcement</p> <p>20 Administration in 2009.</p> <p>21 Q. What was the nature of that</p> <p>22 settlement?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: There are alleged</p>
<p style="text-align: right;">Page 63</p> <p>1 substantive. So just in terms of the</p> <p>2 nuts and bolts. That's it.</p> <p>3 THE WITNESS: Okay. So I would</p> <p>4 send email communications to them or call</p> <p>5 them.</p> <p>6 BY MR. POWERS:</p> <p>7 Q. I'm just trying to understand why</p> <p>8 you gave 2010 as the end date for your</p> <p>9 relationship with Hyman, Phelps & McNamara.</p> <p>10 How come you used 2010 as the</p> <p>11 date that you ended the relationship, but it</p> <p>12 seems like you communicate after 2010 with Hyman,</p> <p>13 Phelps?</p> <p>14 A. They were primarily our counsel</p> <p>15 prior to that time. And then at that point we</p> <p>16 had a settlement agreement and they worked us</p> <p>17 through the settlement agreement. And then our</p> <p>18 counsel went to another firm.</p> <p>19 Q. What was the firm after Hyman,</p> <p>20 Phelps & McNamara?</p> <p>21 A. Morgan Lewis.</p> <p>22 THE WITNESS: May we take a</p> <p>23 break?</p> <p>24 MS. McENROE: Yeah. It's been</p>	<p style="text-align: right;">Page 65</p> <p>1 recordkeeping violations, alleged missing</p> <p>2 drugs.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. Did you have any involvement in</p> <p>5 the discussions that led to that settlement</p> <p>6 agreement?</p> <p>7 A. I did.</p> <p>8 Q. What was the nature of your</p> <p>9 involvement?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 Also, just careful caution</p> <p>12 here -- and I know it originally came up</p> <p>13 in the context of privileged information</p> <p>14 and communication with counsel.</p> <p>15 I caution you not to discuss</p> <p>16 anything you discussed with counsel or</p> <p>17 you learned from counsel.</p> <p>18 THE WITNESS: Okay.</p> <p>19 For the settlement agreement, I</p> <p>20 had obtained documents, looked at the</p> <p>21 records based on the allegations of the</p> <p>22 Drug Enforcement Administration and</p> <p>23 reviewed the documents to determine if</p> <p>24 the allegations were correct or not. I</p>

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<p>1 visited various stores to look for 2 records. I met with various AUSAs to 3 provide records with outside counsel. 4 BY MR. POWERS: 5 Q. Was there anything else in the 6 settlement agreement beyond recordkeeping 7 violations? 8 MS. McENROE: Objection to form. 9 THE WITNESS: There were 10 allegations of medications lost or 11 medications that weren't accounted for. 12 That was the other part of my 13 recollection of it. 14 BY MR. POWERS: 15 Q. Anything else? 16 MS. McENROE: Objection to form. 17 THE WITNESS: There could be 18 more, I just don't remember. 19 BY MR. POWERS: 20 Q. Did the settlement agreement have 21 any allegations regarding Rite Aid knowingly 22 filling prescriptions for controlled substances 23 that were not issued for legitimate medical 24 purposes?</p>	<p>1 computer-based training. We enhanced our 2 DEA store checklist. 3 BY MR. POWERS: 4 Q. Anything else? 5 A. There could be more, I just don't 6 remember. 7 Q. As a result of the 2009 8 settlement, did Rite Aid make any changes with 9 regards to its operations as a controlled 10 substance distributor? 11 MS. McENROE: Objection to form. 12 THE WITNESS: We did not. The 13 Rite Aid distribution center was not 14 involved in the settlement agreement. 15 BY MR. POWERS: 16 Q. I think you mentioned -- you 17 referred to it as a counting on a quarterly basis 18 of hydrocodone. 19 What does that mean? 20 A. That means that every quarter 21 Rite Aid would count the hydrocodone that we had 22 on our shelves and balance it to make sure that 23 the inventory was correct. 24 Q. When you say on the shelves, you</p>
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<p>1 MS. McENROE: Objection to form. 2 THE WITNESS: It did. 3 BY MR. POWERS: 4 Q. In your role as the director of 5 the government affairs office in 2009, did you 6 make any changes as a result of that 2009 7 settlement with the Department of Justice? 8 MS. McENROE: Objection to form. 9 THE WITNESS: Rite Aid had been 10 making changes up to the settlement 11 agreement. Part of the settlement 12 agreement was counting of hydrocodone and 13 acetaminophen on a quarterly basis. We 14 implemented the MethCheck system in our 15 stores. 16 But prior to the 2009 settlement, 17 we had put in a comprehensive program. 18 And that program continues to evolve. 19 BY MR. POWERS: 20 Q. Let me specify my question. 21 As a direct result of the 2009 22 settlement, what changes were made at Rite Aid? 23 MS. McENROE: Objection to form. 24 THE WITNESS: We updated our DEA</p>	<p>1 mean on the shelves at the individual pharmacies? 2 A. In the stores, yes. 3 Q. What is the DEA computer-based 4 training that you referred to earlier? 5 A. It is training for pharmacists 6 to -- in all aspects of DEA guidance related to 7 222 Forms, everything that -- what to look for 8 for a prescription. Everything that would be 9 required. 10 Q. And that DEA computer-based 11 training, was that only for the individual Rite 12 Aid stores? 13 MS. McENROE: Object to the form. 14 THE WITNESS: It was. 15 BY MR. POWERS: 16 Q. So we were talking earlier about 17 resources outside of Rite Aid that you used in 18 your position in government affairs to formulate 19 guidance on DEA regulations. Right? 20 A. Correct. 21 Q. And you mentioned outside 22 counsel, which we've talked about. 23 Is there anyone else outside of 24 Rite Aid that you used to formulate guidance</p>

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1 about DEA regulations?

2 A. I would utilize trade groups.

3 Q. Which trade groups?

4 A. The National Association of Chain

5 Drug Stores, the individual state associations,

6 Maryland Association of Chain Drug Stores. There

7 are retail groups or -- in each of the states

8 that would work on legislation or regulation and

9 formulate information in how it should be rolled

10 out.

11 Q. Besides those trade groups you

12 just mentioned, anything else? Any other parties

13 or organizations outside of Rite Aid that you

14 used to formulate guidance about controlled

15 substances in Rite Aid?

16 A. The National Association of

17 Boards of Pharmacy.

18 Q. Did you ever consult guidance

19 from the Healthcare Distributors Alliance, the

20 HDA?

21 A. Never.

22 Q. How about the HDMA, I believe is

23 the prior name?

24 A. No.

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1 Q. So besides outside counsel and

2 the trade groups you mentioned, did you rely on

3 any other outside individuals or groups to help

4 you formulate guidance about the rules and

5 regulations surrounding controlled substances?

6 A. Not that I can recall.

7 Q. To be clear, this is for the

8 entire time that you were working in the

9 government affairs office between 1995 and 2006?

10 A. Yes.

11 Q. And your answer is the same?

12 A. Yes.

13 Q. When you started in the

14 government affairs office in 1995, what efforts

15 did you make to make sure that Rite Aid was in

16 compliance with the current and existing

17 regulations regarding controlled substances at

18 that point?

19 MS. McENROE: Objection to form.

20 You may respond.

21 THE WITNESS: We reviewed the

22 policies and procedures that were in

23 place. We looked at organization in our

24 stores. We looked at distribution

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1 centers as far as their compliance. So

2 we did an overall view of our entire

3 processes.

4 BY MR. POWERS:

5 Q. When you say "we" in your

6 previous answer, who are you referring to?

7 A. Jim Krahulec, myself, pharmacy

8 operations.

9 Q. Who from pharmacy operations?

10 A. It would have been Scott Jacobson

11 or Mike Podgurski.

12 Q. How did you do your review of the

13 policies and procedures that were in place?

14 A. We looked at issues that had come

15 in from various state inspection notices. If

16 there was a recordkeeping allegation from a state

17 board of pharmacy, we looked at those and

18 determined what some of the more prevalent ones

19 were, ones that we were seeing at that point.

20 And then we developed different tools that our

21 pharmacists could use to organize recordkeeping

22 and maintain proper compliance.

23 Q. You also said you looked at the

24 organization in your stores, what did you mean by

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1 that?

2 A. What we were finding was that one

3 store would keep invoices in one location in one

4 drawer and the other store would keep them in the

5 back room with other documentation. And it was

6 not -- there was not consistency throughout. So

7 at that point then, we developed a DEA

8 recordkeeping box that we sent to the store on a

9 yearly basis where there are specific folders for

10 all of the required DEA documents. So that in

11 every store, all the documents are in one place

12 and can be located.

13 Q. Is that a physical box you --

14 A. It's a physical box, yes.

15 Q. You also said that you looked at

16 the distribution centers as far as their

17 compliance.

18 What do you mean by that?

19 A. I mean, we looked at the

20 distribution centers from the standpoint of was

21 the cage secure, were there good security

22 policies and procedures in place. Were there

23 criminal background checks. Was the alarm system

24 working. Were the SOPs correct.

<p style="text-align: right;">Page 74</p> <p>1 Q. How did you determine whether the 2 SOPs were correct? 3 A. I got together with logistics, 4 and we had a discussion and went through that, 5 through the SOPs. 6 Q. And logistics, that would have 7 been Chris Belli or Kevin Mitchell? 8 A. Yes. 9 Q. Did you do a periodic review of 10 the SOPs for the distribution centers? 11 A. I did not. They were done by our 12 IA team, internal assurance team, and by the 13 logistics Chris Belli/Kevin Mitchell team. 14 Q. And, sorry, we've been saying 15 SOPs. We should be clear for the record. 16 We're talking about standard 17 operating procedures? 18 A. Correct. 19 Q. Before you reviewed the company's 20 SOPs for compliance, how did you familiarize 21 yourself with what was required from a compliance 22 perspective? 23 MS. McENROE: Objection to form. 24 THE WITNESS: I was pretty</p>	<p style="text-align: right;">Page 76</p> <p>1 consulted about the policies and procedures 2 regarding the distribution of controlled 3 substances? 4 A. Back in the -- when I first came, 5 1995, Jim Krahulec was well versed. And he was 6 my mentor, so I learned a lot from him as well. 7 Q. Did you ever update your 8 understanding of what was required under the 9 Controlled Substances Act or other regulations 10 regarding controlled substances? 11 MS. McENROE: Objection to form. 12 THE WITNESS: Can you repeat the 13 question? 14 BY MR. POWERS: 15 Q. Sure. 16 Besides when you started in the 17 government affairs office in 1995, what other 18 actions did you take to familiarize yourself with 19 the rules and regulations regarding the 20 distribution of controlled substances? 21 A. I would attend various 22 conferences throughout the country to attain 23 knowledge. 24 Q. Besides the conferences, what</p>
<p style="text-align: right;">Page 75</p> <p>1 familiar in my role as the PDM, pharmacy 2 district manager, in my role as the 3 pharmacy division manager with compliance 4 with DEA rules and regulations. From the 5 standpoint of, that was -- at that point, 6 you were also responsible for that in the 7 stores. 8 From the distribution side, it 9 was sort of a read and learn and 10 understand the rules and regulations. 11 BY MR. POWERS: 12 Q. So you just read the rules 13 yourself regarding the rules and regulations 14 about dispensing controlled substances; is that 15 right? 16 A. Or I'd interact with the industry 17 leaders to have discussions about what they were 18 doing, the different best practices that were out 19 there. 20 Q. Who were the industry leaders you 21 interacted with? 22 A. People at NACDS, people at the 23 Maryland Association of Chain Drug Stores. 24 Q. Anyone else at Rite Aid that you</p>	<p style="text-align: right;">Page 77</p> <p>1 else did you do to familiarize yourself with the 2 rules and regulations surrounding the 3 distribution of controlled substances? 4 A. That was pretty much it. 5 Q. Did you do any periodic review of 6 the Rite Aid policies and procedures regarding 7 distribution during your time in the government 8 affairs office? 9 A. I may have. That responsibility 10 to put those into the distribution center rested 11 with Chris and Kevin to work with the SOPs. That 12 was their primary responsibility. 13 Q. So it's your testimony that the 14 logistics department was primarily responsible 15 for the Rite Aid policies regarding compliance 16 with the rules and regulations about the 17 distribution of controlled substances; is that 18 right? 19 MS. McENROE: Objection. 20 THE WITNESS: They were the 21 experts of logistics and what went on at 22 the distribution centers. So, yes, they 23 were responsible for the SOPs. I myself 24 would coordinate with them to review the</p>

<p style="text-align: right;">Page 78</p> <p>1 SOPs and determine if they were correct.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. In determining whether those SOPs</p> <p>4 were correct, what did you rely on?</p> <p>5 A. DEA rule and regulation, various</p> <p>6 industry resources.</p> <p>7 Q. Did anyone else at Rite Aid help</p> <p>8 you determine whether those regulations were</p> <p>9 correct?</p> <p>10 A. Mr. Krahulec in the beginning.</p> <p>11 And then once I had a better knowledge base,</p> <p>12 primarily myself.</p> <p>13 Q. And you mentioned that you went</p> <p>14 to some conferences about the rules and</p> <p>15 regulations regarding controlled substance</p> <p>16 distribution.</p> <p>17 What were those conferences?</p> <p>18 A. I went to a DEA conference, a</p> <p>19 pharmacy diversion awareness conference where</p> <p>20 that was discussed.</p> <p>21 So various DEA conferences.</p> <p>22 Q. When you say DEA conferences, are</p> <p>23 you talking about conferences put on by the DEA?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 80</p> <p>1 MS. McENROE: Objection to form.</p> <p>2 THE WITNESS: I do not.</p> <p>3 BY MR. POWERS:</p> <p>4 Q. During your time in the</p> <p>5 government affairs office, did you implement any</p> <p>6 new procedures or policies regarding the</p> <p>7 distribution of controlled substances by Rite</p> <p>8 Aid?</p> <p>9 MS. McENROE: Objection.</p> <p>10 THE WITNESS: I myself did not</p> <p>11 implement any policies and procedures for</p> <p>12 the distribution of controlled</p> <p>13 substances. The logistics team may have</p> <p>14 done that, something I was not aware of.</p> <p>15 But I myself did not implement any.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. Do you know if the logistics team</p> <p>18 implemented any new policies or procedures</p> <p>19 regarding the distribution of controlled</p> <p>20 substances during your time in the government</p> <p>21 affairs office?</p> <p>22 MS. McENROE: Objection.</p> <p>23 THE WITNESS: I believe they did.</p> <p>24 BY MR. POWERS:</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. And you also mentioned a</p> <p>2 diversion awareness conference.</p> <p>3 What was that?</p> <p>4 A. That was the DEA also.</p> <p>5 Q. Do you remember how many DEA</p> <p>6 conferences you actually attended?</p> <p>7 A. From 1995 to present?</p> <p>8 Q. Yes.</p> <p>9 A. 12, 15.</p> <p>10 Q. And before you started working in</p> <p>11 the government affairs office, do you know how</p> <p>12 Rite Aid ensured compliance with the rules and</p> <p>13 regulations regarding the distribution of</p> <p>14 controlled substances?</p> <p>15 MS. McENROE: Objection to form.</p> <p>16 THE WITNESS: Could you state</p> <p>17 that again?</p> <p>18 BY MR. POWERS:</p> <p>19 Q. Sure.</p> <p>20 Before you started working in the</p> <p>21 government affairs office, do you know how Rite</p> <p>22 Aid ensured compliance with the rules and</p> <p>23 regulations regarding the distribution of</p> <p>24 controlled substances?</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. What were those procedures, new</p> <p>2 procedures and policies?</p> <p>3 A. A lot around implementing</p> <p>4 upgraded camera systems, upgrading cages,</p> <p>5 upgrading picking directions.</p> <p>6 Q. Anything else?</p> <p>7 A. Those are the ones that come to</p> <p>8 mind.</p> <p>9 Q. When you say "upgrading picking</p> <p>10 directions," what do you mean by that?</p> <p>11 A. There were various pick machines</p> <p>12 that were in the distribution center. And in</p> <p>13 order to be -- have orders more accurate, they</p> <p>14 would develop upgrades to those machines so that</p> <p>15 the actual people that pick the product in the DC</p> <p>16 had a much easier job.</p> <p>17 Q. And you said it was possible that</p> <p>18 the logistics department implemented policies and</p> <p>19 procedures for the distribution centers that you</p> <p>20 were not aware of; is that right?</p> <p>21 A. That is correct.</p> <p>22 Q. Did the logistics department have</p> <p>23 to get your approval or -- let me phrase that a</p> <p>24 different way.</p>

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1 Did the logistics department have
2 to get government affairs department approval
3 before implementing a new policy or procedure at
4 the distribution centers?
5 MS. McENROE: Objection to form.
6 THE WITNESS: Typically they
7 would get approval, yes.
8 BY MR. POWERS:
9 Q. Was it required?
10 MS. McENROE: Objection to form.
11 THE WITNESS: I don't know that
12 it was required. That was just our
13 process.
14 BY MR. POWERS:
15 Q. And Rite Aid distributed
16 controlled substances up until late 2014.
17 Correct?
18 A. That's correct.
19 Q. And the products that Rite Aid
20 distributed included hydrocodone combination
21 products. Right?
22 A. That is correct.
23 Q. When Rite Aid was distributing
24 controlled substances -- actually, let me back up

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1 a second here.
2 When we're talking about Rite
3 Aid's distribution, can we agree that we're just
4 talking about the time period up until late 2014
5 when Rite Aid was distributing controlled
6 substances?
7 A. Yes.
8 Q. Okay. When Rite Aid was
9 distributing controlled substances, did Rite Aid
10 have a suspicious order monitoring program?
11 A. We did.
12 Q. When has that suspicious order
13 monitoring program been in place since?
14 A. The suspicious order monitoring
15 program has been in place since 1995, when --
16 that I became aware of it. It could have been in
17 place prior to that, but...
18 Q. To the best of your knowledge,
19 the suspicious order monitoring program was in
20 place from 19 -- at least 1995 until 2014?
21 A. Yes.
22 Q. How did you familiarize yourself
23 with the suspicious order monitoring program when
24 you first started in the government affairs

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1 office?
2 MS. McENROE: Objection to form.
3 THE WITNESS: I read the SOPs and
4 reviewed the policies and procedures and
5 became aware of the different aspects of
6 the suspicious order monitoring program.
7 BY MR. POWERS:
8 Q. Did the suspicious order
9 monitoring program change at all between when you
10 first became aware of it and when Rite Aid
11 stopped distributing controlled substances?
12 MS. McENROE: Objection to form.
13 THE WITNESS: It did change.
14 BY MR. POWERS:
15 Q. How did it change?
16 A. We added another -- a component
17 of -- we had an asset protection that would
18 monitor part of our suspicious order monitoring
19 program. And we upgraded and updated asset
20 protection monitoring of our -- portion of our
21 suspicious order monitoring program.
22 Q. When did that happen?
23 A. I would say around 2010.
24 Q. And what was the nature of that

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1 upgrade?
2 A. We got a new computer system that
3 asset protection used to -- for the detection of
4 theft and diversion called NaviScript/NaviCase.
5 And that particular system had a series of key
6 performance indicators that were monitored by
7 asset protection. Those key performance
8 indicators were previously monitored by another
9 system, but this was just an upgraded system.
10 Q. What was the previous system that
11 monitored the KPIs?
12 A. That was an internal system in
13 asset protection. I don't know the name of it.
14 Q. And the NaviCase/NaviScript
15 system you just talked about, that was to monitor
16 theft of controlled substances. Right?
17 MS. McENROE: Objection, form.
18 THE WITNESS: That was to monitor
19 theft, but the other key performance
20 indicators also monitored ordering, cycle
21 counts. There were 90 KPIs.
22 BY MR. POWERS:
23 Q. What do you mean by cycle counts?
24 A. A cycle count is when a

<p style="text-align: right;">Page 86</p> <p>1 pharmacist in a store goes into the system and 2 says that we have -- they have 96 tablets on the 3 shelf. And what happens is the system says 4 they're supposed to have 100. And they count 5 down to 96 and say, okay, I now have 96 instead 6 of the 100. 7 Q. Did the NaviScript/NaviCase 8 system keep track of the inventory at the 9 distribution centers? 10 MS. McENROE: Objection to form. 11 THE WITNESS: Can you phrase the 12 question differently? 13 BY MR. POWERS: 14 Q. It sounds to me like you were 15 talking about the NaviScript/NaviCase system with 16 regards to the individual stores. Right? 17 A. Yes. 18 Q. Did the NaviScript/NaviCase 19 system have any functionality with regards to the 20 distribution centers? 21 MS. McENROE: Objection to form. 22 THE WITNESS: The Navi system 23 from a distribution standpoint, it did 24 not maintain inventory, but it maintained</p>	<p style="text-align: right;">Page 88</p> <p>1 MS. McENROE: Objection to form. 2 THE WITNESS: That was one of the 3 components. 4 Oops, sorry. 5 BY MR. POWERS: 6 Q. And the thresholds were set at 7 5,000 dosage units, 5,000 dosage units for each 8 national drug code. Right? 9 MS. McENROE: Objection to form. 10 THE WITNESS: 5,000 dosage units 11 per each NDC per order. 12 BY MR. POWERS: 13 Q. Per order. 14 And when you say "per order," 15 that's per order by each individual pharmacy. 16 Right? 17 A. Yes. 18 Q. And you said the thresholds was 19 one component of the suspicious order monitoring 20 system. 21 What were the other components? 22 A. Another component was our 23 ordering process and an algorithm that was 24 established by Rite Aid to submit orders to the</p>
<p style="text-align: right;">Page 87</p> <p>1 order data from the distribution center 2 to the stores. 3 BY MR. POWERS: 4 Q. So the Navi -- you said the Navi 5 system could see what was being sent from the 6 distribution center to the individual stores; is 7 that right? 8 A. Yes. 9 Q. Do you know who designed Rite 10 Aid's suspicious order monitoring system 11 originally? 12 A. I do not. 13 Q. Did you personally make any 14 changes to the Rite Aid suspicious order 15 monitoring program? 16 MS. McENROE: Objection to form. 17 THE WITNESS: I don't recall 18 making any changes. From my perspective, 19 again, I may have reviewed some changes 20 that logistics were doing, but I myself, 21 I don't recall making any changes. 22 BY MR. POWERS: 23 Q. That suspicious order monitoring 24 system that Rite Aid had used thresholds. Right?</p>	<p style="text-align: right;">Page 89</p> <p>1 distribution center from our corporate office, 2 based on an individual store's movement. 3 Q. The ordering process you're 4 talking about there, is that the auto 5 replenishment system? 6 A. It is. 7 Q. So the auto replenishment system 8 is part of your suspicious order monitoring 9 program? 10 A. It is. 11 Q. How long has the auto 12 replenishment system been in place for? 13 A. As far back as I know, as I can 14 recall. 15 Q. Even as your time as a 16 pharmacist? 17 A. I don't know that. 18 Q. But -- 19 A. Definitely since 1995. 20 Q. How is the auto replenishment 21 system used in the Rite Aid suspicious order 22 monitoring system? 23 MS. McENROE: Objection to form. 24 THE WITNESS: It is utilized to</p>

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1 generate an order for an individual
2 store.
3 From the suspicious order
4 monitoring process, we know our stores'
5 volume, we know our stores' dispensing,
6 and we're able to take [REDACTED] worth of
7 that dispensing data, place an order so
8 that there's the correct amount on hand,
9 put a slight override into that and
10 place -- provide that to our stores to
11 place an order.
12 An order cannot go over that
13 algorithm coming out of -- from the --
14 from the order going to the distribution
15 center.
16 BY MR. POWERS:
17 Q. How is the limit of the -- just
18 the auto replenishment system different than the
19 threshold limit?
20 MS. McENROE: Objection to form.
21 THE WITNESS: The automated
22 system is different in that it generates
23 an order based on that store's need.
24 When you get to the threshold of

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1 the 5,000 dosage units, that threshold
2 was established as another parameter as
3 part of the process. So it is quite
4 possible that an order could be placed
5 that met the algorithm that was for 5,100
6 tablets to be ordered and the threshold
7 system then at that point in time would
8 kick in and drop that down to 5,000
9 tablets.
10 BY MR. POWERS:
11 Q. But the 5,000 dosage unit
12 threshold, that's not in any electronic form, is
13 it?
14 A. The 5,000 threshold is based on
15 the pickers at the distribution center.
16 Q. So the auto replenishment system
17 could generate an order that was above the 5,000
18 unit thresholds. Right?
19 A. That is correct.
20 Q. And it would then fall on the
21 responsibility of the individuals in the
22 distribution center to then enforce that 5,000
23 dosage unit threshold. Right?
24 A. That is correct.

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1 Q. How does the auto replenishment
2 system identify, report or not ship suspicious
3 orders?
4 MS. McENROE: Objection to form.
5 THE WITNESS: The auto
6 replenishment system does not generate a
7 suspicious order.
8 BY MR. POWERS:
9 Q. It is impossible for the auto
10 replenishment system to generate a suspicious
11 order; is that right?
12 MS. McENROE: Objection to form.
13 THE WITNESS: Based on the
14 algorithm and what is built into it,
15 there's not a suspicious order that's
16 generated by the order system.
17 BY MR. POWERS:
18 Q. My question, though, is, is it
19 impossible for the auto replenishment system to
20 generate a suspicious order?
21 MS. McENROE: Objection to form,
22 asked and answered.
23 THE WITNESS: Could you ask the
24 question again?

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1 BY MR. POWERS:
2 Q. Sure.
3 Is it impossible for the Rite Aid
4 auto replenishment system to generate a
5 suspicious order?
6 MS. McENROE: Objection to form.
7 THE WITNESS: Yes.
8 BY MR. POWERS:
9 Q. The auto replenishment system you
10 said was based on the need of the individual
11 pharmacy. Right?
12 A. Correct.
13 Q. What do you mean when you say by
14 need?
15 A. Based on what is needed to
16 service our patient base, based on that store's
17 previous movement of a particular product.
18 So you would have a drug. We
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 above the highest order that the store could
23 generate. That would go through the system and
24 be -- then would go to the store to be reviewed.

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1 Q. And the data you're talking
2 about, that is dispensing data. Right?
3 A. Dispensing data.
4 Q. And the dispensing data is simply
5 the amount of product that was sold at that
6 particular Rite Aid location. Right?
7 MS. McENROE: Objection to form.
8 THE WITNESS: The amount of
9 product that was dispensed to our
10 patients, yes.
11 BY MR. POWERS:
12 Q. So the auto replenishment system
13 doesn't look at who is writing the prescriptions
14 for those patients?
15 MS. McENROE: Objection to form.
16 THE WITNESS: It does not.
17 BY MR. POWERS:
18 Q. It doesn't look at the amount of
19 controlled substances as opposed to the amount of
20 noncontrolled substances at that Rite Aid
21 location. Right?
22 MS. McENROE: Objection to form.
23 THE WITNESS: It does not, but
24 the asset protection KPIs would look at

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1 that.
2 BY MR. POWERS:
3 Q. The auto replenishment system
4 doesn't do anything to determine the medical need
5 for the individual patients, does it?
6 MS. McENROE: Object to form.
7 THE WITNESS: It does not.
8 Sorry.
9 BY MR. POWERS:
10 Q. Have you ever heard of the term
11 "red flags of diversion"?
12 MS. McENROE: Objection to form.
13 THE WITNESS: I've heard of the
14 term "red flags."
15 BY MR. POWERS:
16 Q. What is your understanding of the
17 term "red flags"?
18 A. Red flags is when dispensing a
19 controlled substance prescription, a pharmacist
20 has a corresponding responsibility to make sure
21 that the prescription is dispensed for a valid
22 medical need in the course of the usual practice
23 of the prescription. The pharmacist is to review
24 the prescription and look at various elements of

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1 the prescription to make sure that it is for a
2 valid medical reason.
3 Q. What are the various elements of
4 the prescription to make sure that it is valid --
5 to make sure that it is valid for a medical
6 reason?
7 A. You need to know the patient,
8 does the pharmacist know the patient. You need
9 to know the prescriber, is the prescriber known
10 to the patient. You would look at, as far as a
11 red flag, what is the distance between the
12 patient and the prescriber.
13 You would look at the original
14 hard copy prescription that's presented to you to
15 determine, does it look like it's a forgery. Is
16 there watermarks on it or something that would
17 identify it as a fraudulent prescription.
18 You would look at the particular
19 type of prescription and prescriber to make sure
20 that it was a proper prescription. Then you
21 could -- and if all of those were met, then at
22 that point the pharmacist would make the decision
23 to dispense the prescription.
24 Q. How about payment in cash, was

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1 that a red flag of diversion?
2 A. It could be.
3 Q. Does the auto replenishment
4 system look at any of the red flags of diversion
5 you just discussed in your previous answer?
6 MS. McENROE: Objection to form.
7 THE WITNESS: It does not.
8 BY MR. POWERS:
9 Q. So if those red flags of
10 diversion that we just talked about were
11 occurring, forged prescriptions, paying in cash,
12 things like that, the auto replenishment system
13 would not have any way of detecting that. Right?
14 MS. McENROE: Objection to form.
15 THE WITNESS: It would not.
16 BY MR. POWERS:
17 Q. You also talked about the auto
18 [REDACTED]
19 Is that just the dispensing data?
20 A. Yes.
21 Q. And that's just purely the volume
22 of product dispensed. Right?
23 MS. McENROE: Objection to form.
24 THE WITNESS: Yes. Dispensed to

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1 the patient.
2 BY MR. POWERS:
3 Q. The 5,000 dosage unit threshold
4 that the distribution center -- well, let me back
5 up there.
6 The 5,000 dosage unit threshold
7 was used by the distribution centers; right?
8 A. That is correct.
9 Q. And that 5,000 dosage unit
10 threshold was the same for every distribution
11 center?
12 A. It was.
13 Q. And it was -- that 5,000 dosage
14 unit threshold was the same for every store that
15 the distribution centers distributed to.
16 Correct?
17 MS. McENROE: Objection to form.
18 THE WITNESS: It was.
19 BY MR. POWERS:
20 Q. Were there any exceptions to that
21 5,000 dosage unit threshold?
22 A. There were exceptions.
23 Q. So besides some of the stores
24 with exceptions, there was a generic threshold

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1 limit for all Rite Aid stores?
2 MS. McENROE: Objection to form.
3 THE WITNESS: Yes. 5,000 per
4 NDC.
5 - - -
6 (Deposition Exhibit No. Rite
7 Aid-Hart-1, Distribution/Customer Support
8 Center, DEA Regulatory Guidelines,
9 Policy, Bates stamped
10 Rite_Aid_OMDL_0046157 through
11 Rite_Aid_OMDL_0046226, was marked for
12 identification.)
13 - - -
14 BY MR. POWERS:
15 Q. I'm going to hand what's been
16 marked as Rite Aid-Hart Exhibit 1. It's a
17 document, somewhat lengthy, but I'm going to
18 direct your attention to a particular page in it.
19 The Bates number on the document is
20 Rite_Aid_OMDL_0046157 through 46226.
21 Are you familiar with the
22 document in Hart Exhibit 1?
23 A. Yes.
24 Q. What is that document?

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1 A. DEA regulatory guidelines for the
2 customer support center.
3 Q. What is the customer support
4 center?
5 A. That is the distribution center.
6 Q. So customer support center is
7 synonymous with distribution center?
8 A. Yes.
9 Q. I'm going to ask you to turn to
10 the section VI, "Excessive Order Monitoring."
11 It's page VI-1 on the bottom there.
12 MS. McENROE: It's a Bates number
13 ending in 179.
14 BY MR. POWERS:
15 Q. Are you familiar with this page?
16 A. I am.
17 Q. When was the last time you saw
18 this particular document in Exhibit 1?
19 A. Yesterday or the day before.
20 Q. What is the page we're looking at
21 in Exhibit 1 ending in Bates 179?
22 A. It's excessive order monitoring.
23 Q. Is this a policy and procedure
24 for the Rite Aid distribution centers?

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1 A. It doesn't say it on that page,
2 but it says it on -- well, it doesn't say policy
3 and procedure.
4 Q. I'm not asking what the page
5 says. I'm asking your own explanation of it.
6 A. Oh, yes.
7 Q. So just to be clear, the page
8 reflected in Exhibit 1 entitled "Excessive Order
9 Monitoring" is a policy and procedure regarding
10 excessive order monitoring for the Rite Aid
11 distribution centers; is that right?
12 A. Yes.
13 Q. Would this policy and procedure
14 apply to all Rite Aid distribution centers?
15 A. Yes.
16 Q. Is this particular policy and
17 procedure a part of Rite Aid's suspicious order
18 monitoring program?
19 A. Yes.
20 Q. Do you know who wrote this
21 document?
22 A. I do not.
23 Q. Did you have any input into what
24 is spelled out on page ending in 179 of

<p style="text-align: right;">Page 102</p> <p>1 Exhibit 1?</p> <p>2 A. I'm sure I did.</p> <p>3 Q. Do you know when you did that,</p> <p>4 when you had your input?</p> <p>5 A. I don't remember.</p> <p>6 Q. Was this the policy and procedure</p> <p>7 regarding excessive order monitoring when you</p> <p>8 first started in the government affairs office in</p> <p>9 1995?</p> <p>10 A. I believe so.</p> <p>11 Q. Did this policy and procedure</p> <p>12 here on the page ending 46179 ever change during</p> <p>13 your time in the government affairs office at</p> <p>14 Rite Aid?</p> <p>15 A. Yes. This is not the most</p> <p>16 current policy.</p> <p>17 Q. How did the policy change from</p> <p>18 when it first started in 1995?</p> <p>19 A. There were some tweaking of it</p> <p>20 along the way, words here and words there. This</p> <p>21 particular page I believe was changed to</p> <p>22 suspicious order monitoring from excessive order</p> <p>23 monitoring.</p> <p>24 Q. Was that the only change that was</p>	<p style="text-align: right;">Page 104</p> <p>1 but it wasn't typically my document.</p> <p>2 Q. What do you mean by "my</p> <p>3 document"?</p> <p>4 A. I didn't -- I wasn't the author</p> <p>5 of it, so...</p> <p>6 Q. Do you know how the document in</p> <p>7 Exhibit 1 was used at the distribution centers?</p> <p>8 MS. McENROE: Objection to form.</p> <p>9 THE WITNESS: I believe that it</p> <p>10 was as part of the operating procedures.</p> <p>11 And it was maintained in the drug cage,</p> <p>12 and individuals were trained on the</p> <p>13 suspicious order monitoring process.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Did you have any role in the</p> <p>16 training of individuals at distribution centers</p> <p>17 on the procedures outlined here on page 46179?</p> <p>18 A. I have trained the DEA</p> <p>19 coordinators at the distribution centers. The</p> <p>20 section of Suspicious Order Monitoring typically</p> <p>21 was not one that I would cover.</p> <p>22 Q. Who would cover that?</p> <p>23 A. Again, either -- the logistics</p> <p>24 person who was their superior.</p>
<p style="text-align: right;">Page 103</p> <p>1 made on this particular policy?</p> <p>2 A. I don't remember.</p> <p>3 Q. But it's the only change you can</p> <p>4 recall right now. Right?</p> <p>5 A. Yes.</p> <p>6 MS. McENROE: Just let him finish</p> <p>7 his questions.</p> <p>8 THE WITNESS: Oh, I'm sorry.</p> <p>9 Just hit me.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. Who would have a copy of the</p> <p>12 document in Exhibit 1 as a whole?</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 THE WITNESS: The logistics</p> <p>15 person at the corporate office. And</p> <p>16 there would be a copy at each of the</p> <p>17 distribution centers.</p> <p>18 BY MR. POWERS:</p> <p>19 Q. And when you say a copy, do you</p> <p>20 mean a hard copy like in paper form?</p> <p>21 A. I would believe so, yes.</p> <p>22 Q. Did you have a copy of the</p> <p>23 document in Exhibit 1?</p> <p>24 A. I may have had one in my file,</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Did you train anyone else besides</p> <p>2 distribution center employees on Rite Aid's</p> <p>3 excessive or suspicious order monitoring</p> <p>4 procedures?</p> <p>5 A. Not that I recall.</p> <p>6 Q. In the paragraph number 1 there</p> <p>7 on page 46179, the first sentence says, "All</p> <p>8 orders containing controlled substances are</p> <p>9 reviewed and verified for order quantity and size</p> <p>10 to not exceed the determined order history</p> <p>11 threshold."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Is that the 5,000 dosage unit</p> <p>15 threshold we were talking about earlier?</p> <p>16 A. That is not.</p> <p>17 Q. What is this threshold here?</p> <p>18 A. Those -- the review and the</p> <p>19 verified order quantity is part of the algorithm</p> <p>20 to determine what the order should be.</p> <p>21 Q. That's the auto replenishment</p> <p>22 system?</p> <p>23 A. Auto replenishment.</p> <p>24 Q. Who is doing the reviewing and</p>

<p style="text-align: right;">Page 106</p> <p>1 verifying referred to in that sentence I just 2 read?</p> <p>3 A. I'm going to backtrack and say I 4 believe that you were correct, and that is the 5 individuals that are in the cage. And then if it 6 goes over the 5,000, it is going to the 7 department manager.</p> <p>8 Q. So just so I have a clear record 9 on this, the first sentence of paragraph 1 on 10 this page refers to an order history threshold.</p> <p>11 And your understanding, your 12 correct understanding is that that is in fact the 13 5,000 dosage unit threshold. Right?</p> <p>14 A. Yes.</p> <p>15 Q. So who reviews and verifies the 16 order quantity and size referred to there in the 17 first sentence of paragraph 1?</p> <p>18 A. The individuals that do the 19 picking at the distribution center.</p> <p>20 Q. Do you have any role in reviewing 21 or verifying the order quantities?</p> <p>22 A. I do not.</p> <p>23 Q. Does anyone in the government 24 affairs office?</p>	<p style="text-align: right;">Page 108</p> <p>1 MS. McENROE: Objection to form. 2 THE WITNESS: They would rely on 3 the auto replenishment system to 4 determine if the quantity of the order 5 went through the auto replenishment 6 system. They would verify with the 7 pharmacist at the pharmacy if the order 8 was correct. So they would do a -- they 9 would perform something to that effect.</p> <p>10 BY MR. POWERS: 11 Q. Is there any written policy or 12 procedure about how they are supposed to perform 13 this review to determine the legitimacy of an 14 order?</p> <p>15 MS. McENROE: Objection to form. 16 THE WITNESS: There is a policy.</p> <p>17 BY MR. POWERS: 18 Q. What is that policy? 19 A. The policy is there is a log 20 maintained if there's an order that is -- that 21 there is -- to determine the legitimacy of the 22 order, and the log is maintained in the cage of 23 the distribution center.</p> <p>24 Q. Is there a written policy that</p>
<p style="text-align: right;">Page 107</p> <p>1 A. We do not. 2 Q. Then it says in the second 3 sentence there, "Any order exceeding the 4 threshold is immediately forwarded to the 5 department manager for further investigation." 6 Do you see that?</p> <p>7 A. I do. 8 Q. Who would the department manager 9 in this sentence refer to?</p> <p>10 A. I would believe typically it 11 would be the DEA coordinator.</p> <p>12 Q. And that would be an individual 13 at the distribution center. Right?</p> <p>14 A. That would be, yes. 15 Q. Paragraph 3, it says, in the 16 first sentence, "A review is performed to 17 determine the legitimacy of the order." 18 Do you see that?</p> <p>19 A. I do. 20 Q. Who performs that review? 21 A. The distribution center 22 personnel.</p> <p>23 Q. And what are they relying on to 24 determine the legitimacy of the order?</p>	<p style="text-align: right;">Page 109</p> <p>1 spells out that that log is supposed to be 2 maintained in the distribution center?</p> <p>3 A. I believe so, yes. 4 Q. Besides the log, any other 5 written policies about how to determine the 6 legitimacy of an order?</p> <p>7 A. Not to the best of my knowledge. 8 Q. And we're talking about the 9 legitimacy of the order.</p> <p>10 What does the legitimacy of the 11 order mean here?</p> <p>12 MS. McENROE: Objection to form. 13 THE WITNESS: If the order was 14 definitely needed by the pharmacy.</p> <p>15 BY MR. POWERS: 16 Q. And when you say "needed by the 17 pharmacy," that's purely referring to the volume 18 needed of the prescription. Right?</p> <p>19 MS. McENROE: Objection to form. 20 THE WITNESS: That is correct.</p> <p>21 BY MR. POWERS: 22 Q. There's no effort here when 23 determining legitimacy of the order to 24 investigate those red flags of diversion we</p>

<p style="text-align: right;">Page 110</p> <p>1 talked about before. Right?</p> <p>2 MS. McENROE: Objection to form.</p> <p>3 THE WITNESS: There is none.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. The next sentence says,</p> <p>6 "Appropriate" -- in paragraph 3 says,</p> <p>7 "Appropriate documentation of the review is</p> <p>8 maintained on file."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. What appropriate documentation is</p> <p>12 maintained on file?</p> <p>13 A. That would be the log that was</p> <p>14 maintained -- that was kept after the phone call</p> <p>15 was made.</p> <p>16 Q. Anything else?</p> <p>17 A. That would be it.</p> <p>18 Q. Moving on to paragraph 4, the</p> <p>19 first -- I guess the only sentence, it says, "Any</p> <p>20 order which is determined to be suspicious will</p> <p>21 be immediately reported to the corporate office,</p> <p>22 who will notify the local DEA Field Division</p> <p>23 Office of the Administration."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 112</p> <p>1 or procedures about how the distribution center</p> <p>2 was supposed to determine whether an order was</p> <p>3 suspicious?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: There are policies</p> <p>6 and procedures to determine a suspicious</p> <p>7 order, yes.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. You were talking about the</p> <p>10 distribution center looking at the history of the</p> <p>11 order.</p> <p>12 A. Uh-huh.</p> <p>13 Q. Was there any guidance given to</p> <p>14 the distribution centers to determine what would</p> <p>15 be used to determine, regarding order history,</p> <p>16 what was suspicious?</p> <p>17 MS. McENROE: Objection, form.</p> <p>18 THE WITNESS: Can you repeat the</p> <p>19 question?</p> <p>20 BY MR. POWERS:</p> <p>21 Q. Sure.</p> <p>22 You said the distribution center</p> <p>23 employees knew the stores they were picking for.</p> <p>24 Right?</p>
<p style="text-align: right;">Page 111</p> <p>1 A. I do.</p> <p>2 Q. Is the distribution center the</p> <p>3 one who is determining whether the order is</p> <p>4 suspicious or not?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: They are.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. How do they determine whether the</p> <p>9 order is suspicious or not?</p> <p>10 MS. McENROE: Objection, form.</p> <p>11 THE WITNESS: They would look at</p> <p>12 the quantity of the order. They would</p> <p>13 look at the -- at the distribution</p> <p>14 center, they know the previous store's</p> <p>15 history from picking the order every</p> <p>16 week. They may see a store that has</p> <p>17 ordered five of a particular item. And</p> <p>18 then one week off, there could be 15</p> <p>19 ordered. So at that point they would</p> <p>20 say, this store always gets five. Let's</p> <p>21 call the store and determine if they</p> <p>22 really wanted 15.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. Were there any written policies</p>	<p style="text-align: right;">Page 113</p> <p>1 A. Correct.</p> <p>2 Q. And they gained that knowledge</p> <p>3 through picking for those stores periodically</p> <p>4 during their jobs. Right?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: Correct. They pick</p> <p>7 a store once a week.</p> <p>8 BY MR. POWERS:</p> <p>9 Q. So besides just being the one who</p> <p>10 picks that store every week, was there any way --</p> <p>11 any other way that the distribution center</p> <p>12 employees were supposed to determine whether or</p> <p>13 not an order was suspicious?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: To the best of my</p> <p>16 knowledge, no.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. And in paragraph 4 here, it says,</p> <p>19 "Any order which is determined to be suspicious</p> <p>20 will be immediately reported to the corporate</p> <p>21 office."</p> <p>22 Who at the corporate office would</p> <p>23 the suspicious orders be reported to?</p> <p>24 A. That would be me.</p>

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1 Q. Were any suspicious orders ever
2 reported to you at the corporate office?
3 A. There were none reported to me.
4 Q. And to be clear, you never
5 received a report of a suspicious order your
6 entire time working in the corporate office from
7 1995 through 2018. Correct?
8 A. I did not.
9 Q. Going down to paragraph 5, it
10 says, if a suspicious order is reported to
11 corporate, the corporate government affairs will
12 determine whether to "ship" or "do not ship."
13 Do you see that?
14 A. I do.
15 Q. And this is the same corporate
16 office that we just referred to, the government
17 affairs office. Right?
18 A. That is correct.
19 Q. So that would be you?
20 A. That would be me.
21 Q. How would you make the
22 determination of whether to ship or not ship?
23 A. There would be a number of
24 factors that would come into play. The very

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1 first factor that I would look at is if it was an
2 auto ship order, that it came through the
3 algorithm and that was what the algorithm
4 provided. That would be a key one.
5 A second one would be to look at
6 the size of the order, to determine if the
7 unusual size of it was due to something at the
8 pharmacy that was placing the order, if there was
9 something unusual happening at that pharmacy.
10 Q. Anything else you would look at?
11 A. That would be it.
12 Q. Was there any written policy or
13 procedure about how to make that decision about
14 whether to ship or not ship?
15 A. To the best of my knowledge, no.
16 Q. So the factors you just testified
17 about that you would use to determine whether to
18 ship or not ship, those were just ones that you
19 yourself personally came up with. Right?
20 A. Yes.
21 MS. McENROE: Objection to form.
22 THE WITNESS: Sorry.
23 BY MR. POWERS:
24 Q. What were those based on, those

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1 factors based on?
2 A. Based on my knowledge of the
3 industry, based on my years of experience having
4 dealt with the DEA for a period of -- for a long
5 period of time, and knowing how to review a store
6 as far as its book of business, going way back to
7 even my days as the pharmacy district manager in
8 the Baltimore market.
9 Q. But to be clear, you never had to
10 make the decision whether to ship or not ship
11 because you never received any report of a
12 suspicious order. Right?
13 A. That is correct.
14 Q. And going down to paragraph 6, it
15 says, "All discussions, investigations and
16 reports will be maintained in the file designated
17 'Suspicious Orders.'"
18 Do you see that?
19 A. I do.
20 Q. Am I correct to assume that there
21 was no file designated suspicious orders because
22 there were no suspicious orders?
23 A. You are correct.
24 Q. Who would keep that file, if

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1 there was one?
2 A. Our office would maintain a file.
3 And there would be a file maintained at the
4 individual distribution center.
5 Q. How did you ensure that the
6 policy we just talked about in Exhibit 1
7 reflected on page 46179 was followed at the
8 distribution centers?
9 MS. McENROE: Objection to form.
10 THE WITNESS: The distribution
11 center has constant monitoring. They
12 have audits completed by our internal
13 audit group and by asset protection, and
14 by logistics and transportation, where
15 there are individual groups that go into
16 each of the distribution centers once a
17 year on behalf of Rite Aid and have a
18 checklist of compliance to review at the
19 distribution centers.
20 So there is a review done to make
21 sure that the processes are being
22 followed related to suspicious orders,
23 security. All of the policies and
24 procedures are reviewed and there is a

<p style="text-align: right;">Page 118</p> <p>1 specific checklist completed.</p> <p>2 BY MR. POWERS:</p> <p>3 Q. Did you personally have any</p> <p>4 responsibility for ensuring compliance with the</p> <p>5 excessive or suspicious order monitoring</p> <p>6 procedure?</p> <p>7 MS. McENROE: Objection to form.</p> <p>8 THE WITNESS: Those particular</p> <p>9 checklists were, again, completed by</p> <p>10 logistics.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. But my question is, did you have</p> <p>13 any personal responsibility for ensuring the</p> <p>14 distribution center compliance with the excessive</p> <p>15 order monitoring or suspicious order monitoring</p> <p>16 procedure?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I had</p> <p>19 responsibility for reviewing the policies</p> <p>20 and procedures and the checklists and</p> <p>21 that, but the sole responsibility as far</p> <p>22 as like the monitoring and if there was</p> <p>23 something that needed to be corrected or</p> <p>24 something along those lines, that would</p>	<p style="text-align: right;">Page 120</p> <p>1 - - -</p> <p>2 (Deposition Exhibit No. Rite</p> <p>3 Aid-Hart-2, Rite Aid Distribution Center</p> <p>4 DEA Regulatory Guidelines,</p> <p>5 Rite_Aid_OMDL_0014804 through</p> <p>6 Rite_Aid_OMDL_0014874, was marked for</p> <p>7 identification.)</p> <p>8 - - -</p> <p>9 THE WITNESS: Thank you.</p> <p>10 BY MR. POWERS:</p> <p>11 Q. I'm going to direct your</p> <p>12 attention specifically to the page Rite</p> <p>13 Aid_OMDL_0014828.</p> <p>14 This page here, 14828 in</p> <p>15 Exhibit 2, appears to be a similar document and</p> <p>16 page to the one we were just looking at in</p> <p>17 Exhibit 1. Right?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: It does.</p> <p>20 BY MR. POWERS:</p> <p>21 Q. And I don't know if the trial</p> <p>22 tech could actually pull up Exhibit 1 and put it</p> <p>23 side to side on the monitor in front of you with</p> <p>24 the page in Exhibit 2.</p>
<p style="text-align: right;">Page 119</p> <p>1 rest with logistics.</p> <p>2 MS. McENROE: Hey, Will, we've</p> <p>3 been going about an hour. When you find</p> <p>4 a good time for a break, that would be</p> <p>5 appreciated.</p> <p>6 MR. POWERS: Yeah, we can take a</p> <p>7 break now. That's fine.</p> <p>8 MS. McENROE: Great. Thank you.</p> <p>9 THE VIDEOGRAPHER: Going off the</p> <p>10 record at 11:41 a.m.</p> <p>11 - - -</p> <p>12 (A recess was taken from</p> <p>13 11:41 a.m. to 11:58 a.m.)</p> <p>14 - - -</p> <p>15 THE VIDEOGRAPHER: We're back on</p> <p>16 the record at 11:58 a.m.</p> <p>17 BY MR. POWERS:</p> <p>18 Q. Welcome back, Ms. Hart. I'm</p> <p>19 going to hand you what's been marked as Rite</p> <p>20 Aid-Hart Exhibit 2. It's, once again, a large</p> <p>21 document, but I'm only going to talk to you about</p> <p>22 one page. It is Bates number</p> <p>23 Rite_Aid_OMDL_0014804 through 14873. Take a look</p> <p>24 at that.</p>	<p style="text-align: right;">Page 121</p> <p>1 MS. McENROE: And for the record,</p> <p>2 I'm just setting the witness up with the</p> <p>3 hard copy versions of Exhibits 1 and 2.</p> <p>4 MR. POWERS: Sure, yes.</p> <p>5 BY MR. POWERS:</p> <p>6 Q. So I'm going to refer to you in</p> <p>7 hard copy between the two pages we've been</p> <p>8 talking about, page 46179 in Exhibit 1 and page</p> <p>9 14828 in Exhibit 2.</p> <p>10 Do you have those pages in front</p> <p>11 of you?</p> <p>12 A. I don't think this is the right</p> <p>13 page.</p> <p>14 Yes.</p> <p>15 Q. With these documents side to</p> <p>16 side, can you see if there are any other changes</p> <p>17 to this policy besides the title changing from</p> <p>18 Excessive Order Monitoring to Suspicious Order</p> <p>19 Monitoring?</p> <p>20 MS. McENROE: Objection to form.</p> <p>21 THE WITNESS: It appears as if</p> <p>22 number 5 has changed.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. What is the nature of the change</p>

<p style="text-align: right;">Page 122</p> <p>1 in number 5?</p> <p>2 A. Number 5 changed to, "If a</p> <p>3 suspicious order is reported to Corporate, the</p> <p>4 Corporate Government Affairs will determine</p> <p>5 whether to 'ship' or 'do not ship.'"</p> <p>6 Q. I understand that the text is</p> <p>7 different.</p> <p>8 Is the procedure that is to be</p> <p>9 followed any different?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: It remains the</p> <p>12 same.</p> <p>13 BY MR. POWERS:</p> <p>14 Q. Besides the wording of paragraph</p> <p>15 5 and the title of the document, any other</p> <p>16 changes to the policy and procedure regarding</p> <p>17 suspicious order monitoring?</p> <p>18 A. I don't see any.</p> <p>19 Q. Do you know who made the decision</p> <p>20 to change this policy from being entitled</p> <p>21 "Excessive Order Monitoring" to "Suspicious Order</p> <p>22 Monitoring"?</p> <p>23 A. I believe it would have been</p> <p>24 someone in logistics.</p>	<p style="text-align: right;">Page 124</p> <p>1 this together and redid the front page and</p> <p>2 information like that.</p> <p>3 Q. Did Chris Belli consult you about</p> <p>4 whether he should change the policy name from</p> <p>5 excessive order monitoring to suspicious order</p> <p>6 monitoring?</p> <p>7 A. I don't recall.</p> <p>8 Q. You can put those exhibits to the</p> <p>9 side.</p> <p>10 I'm going to hand you what's been</p> <p>11 marked as Hart Exhibit 3. The Bates number on</p> <p>12 this exhibit is Rite_Aid_OMDL_0015079 through</p> <p>13 15081.</p> <p>14 - - -</p> <p>15 (Deposition Exhibit No. Rite</p> <p>16 Aid-Hart-3, Controlled Drug Above Average</p> <p>17 Order Monitoring Program, Bates stamped</p> <p>18 Rite_Aid_OMDL_0015079 through</p> <p>19 Rite_Aid_OMDL_0015081, was marked for</p> <p>20 identification.)</p> <p>21 - - -</p> <p>22 BY MR. POWERS:</p> <p>23 Q. Take a look at that.</p> <p>24 A. (Reviewing document.)</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. Any idea who in logistics?</p> <p>2 A. Perhaps Chris Belli.</p> <p>3 Q. Do you know when the title of</p> <p>4 this document was changed from "Excessive Order</p> <p>5 Monitoring" to "Suspicious Order Monitoring"?</p> <p>6 A. I do not.</p> <p>7 Q. Do you know why it was changed</p> <p>8 from "Excessive Order Monitoring" to "Suspicious</p> <p>9 Order Monitoring"?</p> <p>10 A. I do not know.</p> <p>11 Q. Who would know that?</p> <p>12 A. Chris Belli.</p> <p>13 MS. McENROE: Objection to form.</p> <p>14 BY MR. POWERS:</p> <p>15 Q. Anyone else?</p> <p>16 A. I believe it would rest with</p> <p>17 logistics.</p> <p>18 Q. And you believe it would have</p> <p>19 been during the timeframe Chris Belli was working</p> <p>20 in logistics?</p> <p>21 A. Yes.</p> <p>22 Q. What is that knowledge based on?</p> <p>23 A. Some discussion that I remember</p> <p>24 having at the time when Chris was putting it --</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. Are you familiar with the</p> <p>2 document in Exhibit 3?</p> <p>3 A. I am.</p> <p>4 Q. What is the document in</p> <p>5 Exhibit 3?</p> <p>6 A. It is a sign-off sheet for the</p> <p>7 controlled drug above average order monitoring</p> <p>8 program.</p> <p>9 Q. When was the last time you saw</p> <p>10 the document reflected in Exhibit 3?</p> <p>11 A. Yesterday or the day before.</p> <p>12 Q. How was the document in Exhibit 3</p> <p>13 used at Rite Aid?</p> <p>14 MS. McENROE: Objection to form.</p> <p>15 THE WITNESS: It was used to</p> <p>16 document that the individuals that were</p> <p>17 in the controlled drug cage picking</p> <p>18 orders understood the above average order</p> <p>19 monitoring program and what was required</p> <p>20 of them when picking controlled</p> <p>21 substances.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. Was this particular document in</p> <p>24 Exhibit 3 used at every distribution center?</p>

<p style="text-align: right;">Page 126</p> <p>1 MS. McENROE: Objection to form. 2 THE WITNESS: This or a form of 3 it, I believe. 4 BY MR. POWERS: 5 Q. So the distribution centers used 6 different documents, different written documents, 7 to spell out the above average order monitoring 8 program procedures? 9 MS. McENROE: Objection, form. 10 BY MR. POWERS: 11 Q. Is that correct? 12 A. If you look at this particular 13 form, on the bottom here, across to the revision, 14 this says, "D.C. 10 DEA," with the DEA number on 15 there. So that leads me to believe this was the 16 form that was used in the Perryman Distribution 17 Center. 18 Q. But this was not the form that 19 was used in other distribution centers besides 20 Perryman to explain the above average order 21 monitoring program? 22 MS. McENROE: Objection to form. 23 BY MR. POWERS: 24 Q. Is that right?</p>	<p style="text-align: right;">Page 128</p> <p>1 THE WITNESS: I believe it's in 2 the standard operating procedures as 3 well. 4 BY MR. POWERS: 5 Q. Is that a separate document than 6 the ones we looked at in Exhibit 1 and 2? 7 A. I think it would be 1 or 2, in 1 8 or 2. 9 Q. Just so I'm perfectly clear, you 10 think that the procedure that is reflected in 11 Exhibit 3 about what to do when an order comes in 12 above average is also reflected in the SOPs in 13 Exhibit 1 and 2; is that right? 14 MS. McENROE: Objection to form. 15 THE WITNESS: I honestly don't 16 know. 17 BY MR. POWERS: 18 Q. Looking at Exhibit 3, it says in 19 the first -- the first paragraph in all caps 20 there, "Any person who picks a controlled drug 21 order is responsible for documenting all 22 requested orders that are above the posted 23 threshold." 24 Do you see that?</p>
<p style="text-align: right;">Page 127</p> <p>1 A. I could not say for certain. 2 Q. Did you review the document in 3 Exhibit 3 while it was being drafted? 4 A. I believe so. 5 Q. Did you provide feedback about 6 what should be included in this procedure 7 reflected in Exhibit 3? 8 A. I would say yes. 9 Q. What feedback did you provide? 10 A. I probably would have tweaked the 11 language a little bit, depending on, you know, 12 what the wording was. 13 Q. And it looks to me like this 14 Exhibit 3 outlines a procedure about what a 15 distribution center employee is supposed to do 16 when an order comes in over threshold. Right? 17 MS. McENROE: Objection to form. 18 THE WITNESS: Correct. 19 BY MR. POWERS: 20 Q. Besides the document reflected in 21 Exhibit 3, is the procedure about what to do when 22 an order comes in over threshold written down any 23 other place? 24 MS. McENROE: Objection to form.</p>	<p style="text-align: right;">Page 129</p> <p>1 A. I do. 2 Q. What does that mean? 3 A. That's making the picker that's 4 in the cage picking responsible for documenting 5 any orders that are above the posted threshold. 6 So that would be the 7 Pick-to-late, when we talk about the 5,000 8 threshold that we talked about earlier, and then 9 if there was any other threshold above 5,000 10 dosage units that was approved by government 11 affairs that were in place at the distribution 12 center. 13 Q. So the threshold referred to in 14 that first all caps paragraph in Exhibit 3 is the 15 5,000 dosage unit threshold. Right? 16 A. Yes. 17 Q. And it looks like it says that 18 the orders above threshold should be documented. 19 Right? 20 A. Correct. 21 Q. And they're documented in the 22 above average order monitoring log; is that 23 right? 24 A. Correct.</p>

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1 Q. In the third paragraph, the
2 second paragraph that is not in all caps, it
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 Do you see that?
7 A. I do.
8 Q. And it looks like it's referring
9 to the amount as the threshold. Right?
10 MS. McENROE: Objection to form.
11 THE WITNESS: Can you repeat the
12 question?
13 BY MR. POWERS:
14 Q. Sure. I'll back up a little bit.
15 A. Okay.
16 Q. In the first sentence of the
17 paragraph we're looking at there, it says, "If
18 the store verifies the quantity is correct the
19 associate notifies them that we cannot send more
20 than 50 units."
21 Do you see that?
22 A. I do.
23 Q. Then the next sentence says,
24 [REDACTED]

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1 [REDACTED]
2 Do you see that?
3 A. I do.
4 Q. So it's -- the 50-unit amount
5 referred to there in those two sentences is the
6 same as the 5,000 dosage unit threshold. Right?
7 A. The 50 units is the same, yes.
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

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1 Q. So I want to back up a second
2 here.
3 We talked about the 5,000 dosage
4 unit threshold. Right?
5 A. Yes.
6 Q. How is that 5,000 dosage unit
7 threshold calculated?
8 MS. McENROE: Objection to form.
9 THE WITNESS: 5,000 across the
10 board.
11 BY MR. POWERS:
12 Q. I'm asking, though, how did the
13 threshold come to be 5,000 dosage units?
14 A. I don't know.
15 Q. You have no idea how the 5,000
16 dosage unit threshold was decided upon?
17 MS. McENROE: Objection to form.
18 THE WITNESS: I don't.
19 BY MR. POWERS:
20 Q. Who would know that?
21 A. I don't know. Perhaps at that
22 time my boss, Jim Krahulec.
23 Q. So the 5,000 dosage unit
24 threshold was in place in 1995 when you started

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1 in government affairs; is that right?
2 A. That's correct.
3 Q. Was the 5,000 dosage unit
4 threshold in place when you first started at Rite
5 Aid in 1984?
6 A. I don't know that. In a store
7 you're not familiar with that, with what happens
8 at the distribution center.
9 Q. And to be clear, that 5,000
10 dosage unit threshold for the Rite Aid
11 distribution centers never changed the entire
12 time that you were in government affairs; is that
13 right?
14 MS. McENROE: Objection to form.
15 THE WITNESS: That is correct.
16 BY MR. POWERS:
17 Q. So how is the 50-unit threshold
18 referred to in Exhibit 3 based on a [REDACTED]
19 [REDACTED] the threshold never changed in
20 the entire time that you were in the government
21 affairs office?
22 MS. McENROE: Objection to form.
23 THE WITNESS: Can you repeat
24 that?

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1 BY MR. POWERS:
2 Q. I'll break it down a little bit.
3 A. Okay.
4 Q. So the 5,000 dosage unit
5 threshold never changed. Right?
6 A. Right.
7 Q. But this Exhibit 3 here is saying
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 A. This document is wrong.
14 Q. So the distribution center is
15 relying on this document, Exhibit 3, but it's
16 wrong; is that right?
17 A. That's correct.
18 Q. Did you ever look into or
19 investigate in any way why the threshold was set
20 at 5,000 dosage units when you started in the
21 government affairs office?
22 A. I did not.
23 Q. Did you ever look into or
24 investigate in any way why the threshold was

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1 5,000 dosage units during your entire time at
2 Rite Aid?
3 A. I did not.
4 Q. Did anyone, to the best of your
5 knowledge, investigate why the threshold was set
6 at 5,000 dosage units during your time at Rite
7 Aid?
8 A. I do not know if anybody did.
9 Q. And the procedure outlined in
10 Exhibit 3 here calls for the distribution center
11 employees to short an order if the order comes in
12 above the threshold. Right?
13 A. Correct.
14 Q. What does that mean?
15 A. It means takes the order down to
16 the 5,000 dosage units.
17 Q. Is that also called cutting an
18 order?
19 MS. McENROE: Objection to form.
20 THE WITNESS: It could be.
21 BY MR. POWERS:
22 Q. So if an order comes in, let's
23 say at 8,000 dosage units, the distribution
24 center procedure would be to call the pharmacy

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1 first. Right?
2 A. Correct.
3 Q. And when they call the pharmacy,
4 it would be to ask if the pharmacy truly wanted
5 that 8,000 dosage unit amount. Right?
6 A. Correct.
7 Q. And if the pharmacy said, yes, we
8 want that full amount, the distribution center
9 employee was then to say, you can't have that
10 full amount. Right?
11 A. That's correct.
12 Q. And the distribution center
13 employee would say, you can only have the
14 threshold amount, which was 5,000. Right?
15 A. That's correct.
16 Q. And so then the distribution
17 center would then confirm that the pharmacy still
18 wanted that full 5,000 amount. Right?
19 A. Yes.
20 Q. And then the distribution center
21 would fill or partially fill that original order
22 for only up to the threshold amount. Right?
23 MS. McENROE: Objection to form.
24 THE WITNESS: That's correct.

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1 BY MR. POWERS:
2 Q. And sometimes when the
3 distribution center was filling orders from
4 pharmacies after business hours, they would not
5 be able to call the pharmacy. Right?
6 A. That is correct.
7 Q. In that instance, the
8 distribution center would just go ahead and cut
9 the order down to the threshold amount and ship
10 it at that cut amount. Right?
11 MS. McENROE: Objection to form.
12 THE WITNESS: That is correct.
13 BY MR. POWERS:
14 Q. And that blanket 5,000-unit --
15 5,000 dosage unit threshold is for every Rite Aid
16 store. Right?
17 MS. McENROE: Objection to form.
18 THE WITNESS: The 5,000 blanket
19 is for every Rite Aid store except for
20 the few stores that have the exception.
21 BY MR. POWERS:
22 Q. And that 5,000 dosage unit
23 threshold doesn't take into account any
24 variations between the different stores in terms

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1 of volume. Right?

2 A. It does not.

3 Q. It doesn't take into account or

4 look at the prescribing physicians at the

5 particular locations. Right?

6 A. It does not.

7 Q. It doesn't look and take into

8 consideration whether a particular store is

9 serving a large hospital, does it?

10 A. It does not.

11 Q. So a Rite Aid store in rural Ohio

12 would have the same distribution center threshold

13 as a Rite Aid store in downtown Cleveland.

14 Right?

15 MS. McENROE: Objection to form.

16 THE WITNESS: The 5,000 would

17 apply to both stores.

18 BY MR. POWERS:

19 Q. Does anyone else beside the

20 distribution center employees have responsibility

21 to contact the pharmacy when an order comes in

22 over threshold?

23 MS. McENROE: Objection to form.

24 THE WITNESS: When an order comes

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1 in over threshold, that rests with the

2 DC.

3 BY MR. POWERS:

4 Q. Did anyone ever call you in

5 government affairs about orders coming in over

6 threshold?

7 A. Not that I recall, no.

8 Q. Do you know if anyone in

9 government affairs was ever contacted about

10 stores consistently ordering above threshold?

11 MS. McENROE: Objection to form.

12 THE WITNESS: Not that I recall.

13 BY MR. POWERS:

14 Q. And we talked about stores that

15 had exceptions to the 5,000 dosage unit

16 threshold. Right?

17 A. Correct.

18 Q. How was it determined that a

19 store would get an exception to the 5,000 dosage

20 unit threshold?

21 A. We would look at the dispensing

22 history for that particular store, the order

23 history for that particular store, and make a

24 determination as far as if what the adjust --

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1 what the suggested order continuously for that

2 store came in above the threshold, we would take

3 that into account as well.

4 - - -

5 (Deposition Exhibit No. Rite

6 Aid-Hart-4, Pharmacy Replenishment System

7 Store Order History, Bates stamped

8 Rite_Aid_OMDL_0015302 through

9 Rite_Aid_OMDL_0015307, was marked for

10 identification.)

11 - - -

12 BY MR. POWERS:

13 Q. I'm going to hand you what's been

14 marked as Hart Exhibit 4. It is a document that

15 is Bates labeled Rite_Aid_OMDL_0015302 through

16 15307. Take a look at that.

17 A. Thank you.

18 MS. McENROE: Just for the

19 record, Will, so that I'm not confusing

20 myself, I agree the Bates range goes that

21 direction.

22 Do you know how this was produced

23 together with an email behind a document?

24 MR. POWERS: I believe this Bates

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1 range was identified by Rite Aid in its

2 interrogatory responses in this

3 particular order and range.

4 MS. McENROE: Got it. Okay.

5 THE WITNESS: (Reviewing

6 document.)

7 BY MR. POWERS:

8 Q. Direct your attention to the

9 third to last page in Exhibit 4, with the Bates

10 number 15305. It looks like the beginning of an

11 email chain.

12 Do you see that?

13 A. I do.

14 Q. It looks like at the top here

15 it's an email from Andrea Bucher to you, Janet

16 Hart, on November 12, 2010. Right?

17 A. The email is from me to Andrea.

18 Q. Oh, I'm sorry. I have that

19 backwards.

20 It's an email from you to Andrea

21 Bucher in 2010. Right?

22 A. Correct.

23 Q. And it looks like you are

24 reviewing the order history of store 3151?

<p style="text-align: right;">Page 142</p> <p>1 A. That is correct.</p> <p>2 Q. And in particular, you're</p> <p>3 reviewing the hydrocodone threshold for store</p> <p>4 3151. Right?</p> <p>5 A. For the product 5/500. Correct.</p> <p>6 Q. And was it your office that would</p> <p>7 make the determination whether or not to give a</p> <p>8 threshold exception to a particular store?</p> <p>9 A. It would be.</p> <p>10 Q. And that's a threshold exception</p> <p>11 to the 5,000 dosage unit threshold. Right?</p> <p>12 A. That's correct.</p> <p>13 Q. And it looks like in the top</p> <p>14 email there, you're asking Andrea Bucher to "run</p> <p>15 reports" for Monday. Right?</p> <p>16 A. Correct.</p> <p>17 Q. What reports are you referring</p> <p>18 there?</p> <p>19 A. A DUR report, a screen print from</p> <p>20 the computer system, and reports like that.</p> <p>21 Q. Are those reports the pages</p> <p>22 reflected in the first three pages of Exhibit 4,</p> <p>23 15302 through 15304?</p> <p>24 A. They are.</p>	<p style="text-align: right;">Page 144</p> <p>1 would that be -- where would a record of that be</p> <p>2 reflected?</p> <p>3 A. It could be in the file. It</p> <p>4 could be just something that we did verbally. It</p> <p>5 doesn't have to be reflected anywhere.</p> <p>6 Q. Did you do -- strike that.</p> <p>7 Was there any written procedure</p> <p>8 about how you were to determine whether a</p> <p>9 threshold increase would be granted?</p> <p>10 A. No written procedure, no, that</p> <p>11 I'm aware of.</p> <p>12 Q. It was just something that you</p> <p>13 yourself determined. Right?</p> <p>14 A. True.</p> <p>15 I would like to make note on this</p> <p>16 one DUR report that you had produced here, it</p> <p>17 looks like if you look at Andrea's 45,000 divided</p> <p>18 by 12. When you look at the DUR report, it's</p> <p>19 only a four-month period of time. It's not a</p> <p>20 12-month period of time.</p> <p>21 Q. Were you supposed to look at a</p> <p>22 12-month period of time to determine whether a</p> <p>23 threshold exception was appropriate?</p> <p>24 A. It all depends.</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. And it looks like the first page</p> <p>2 of Exhibit 4, 15302, is the store order history.</p> <p>3 Right?</p> <p>4 A. That is correct.</p> <p>5 Q. 15303 is the dispensing history.</p> <p>6 Right?</p> <p>7 A. That's correct.</p> <p>8 Q. And the 15304 is the DUR report.</p> <p>9 Right?</p> <p>10 A. That is correct.</p> <p>11 Q. And besides these three reports,</p> <p>12 did you use anything else to determine whether a</p> <p>13 store would receive a threshold exception?</p> <p>14 A. These were the primary reports</p> <p>15 that we used.</p> <p>16 Q. Was there anything else you used</p> <p>17 to determine whether a store would get a</p> <p>18 threshold exception?</p> <p>19 A. We may have looked at the store</p> <p>20 itself. We may have looked at where it was</p> <p>21 located. Those were things that we would review</p> <p>22 also for a threshold increase.</p> <p>23 Q. If you looked at anything besides</p> <p>24 these three reports here in Exhibit 4, where</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. Why did you feel the need to</p> <p>2 point out that this was only a four-month period</p> <p>3 of time here?</p> <p>4 A. The four-month period of time</p> <p>5 increases the amount of dosage units that would</p> <p>6 have been dispensed in that -- for that period of</p> <p>7 time. So instead of taking the 45,000 and</p> <p>8 dividing it by 12 months, the usage for that</p> <p>9 store would have been the 45,000 divided by the</p> <p>10 four months.</p> <p>11 Q. So Andrea Bucher's handwritten</p> <p>12 note on page 15304 of Exhibit 4 is incorrect</p> <p>13 then?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever go and physically</p> <p>16 visit a store when you were determining whether</p> <p>17 or not that store should get a threshold</p> <p>18 increase?</p> <p>19 A. I have visited a store for a</p> <p>20 threshold increase.</p> <p>21 Q. When was that?</p> <p>22 A. Within the last three or four</p> <p>23 years. Obviously we stopped distributing in</p> <p>24 2014, so it was prior to that. I'm going to say</p>

<p style="text-align: right;">Page 146</p> <p>1 probably two years prior to us stopping 2 distributing hydrocodone. 3 Q. Do you remember where that store 4 was? 5 A. Brodheadsville, Pennsylvania. 6 Q. Did you visit that store because 7 it was close to where you were residing at the 8 time? 9 MS. McENROE: Objection to form. 10 THE WITNESS: I did not. 11 BY MR. POWERS: 12 Q. Why did you feel the need to 13 visit that particular store in person? 14 A. There was a lot of hydrocodone 15 that was dispensed from that particular pharmacy. 16 And we were looking at it as far as the mix of 17 doctors and things along those lines. And so I 18 went out to visit the store. 19 Q. Besides that store in 20 Pennsylvania you just mentioned, did you ever go 21 to any other stores in person to determine 22 whether or not they should receive a threshold 23 increase? 24 A. No.</p>	<p style="text-align: right;">Page 148</p> <p>1 MS. McENROE: Objection to form. 2 THE WITNESS: It's not reflected 3 in this documentation. 4 BY MR. POWERS: 5 Q. Did you do that for every store 6 when determining whether the store should get a 7 threshold increase? 8 A. We did not. 9 Q. Why did you decide to do it for 10 particular stores and not other stores? 11 A. We did it based on the volume of 12 the store, the size of the increase that was -- 13 they were asking for. There were different 14 parameters. Each one of them is a little 15 individual situation. 16 Q. You said there are different 17 parameters you looked at. 18 What are the parameters you 19 looked at when determining whether a threshold 20 increase was warranted? 21 A. Primarily what's on this 22 document, but we also look at the store overall. 23 We would look at it to determine if it was up in 24 business overall.</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. So it was just the one time? 2 A. Yes. 3 Q. Did you ever review the 4 percentage of controlled substances dispensed 5 versus the controlled -- percentage of 6 noncontrolled substances dispensed when 7 determining if a store should get a threshold 8 increase? 9 A. We do. We did. 10 Q. How is that reflected? 11 A. How is it reflected? 12 MS. McENROE: Objection to form. 13 BY MR. POWERS: 14 Q. In the documentation for a -- 15 A. Well, it's not in the -- 16 MS. McENROE: Let him finish his 17 question. 18 THE WITNESS: Oh, sorry, sorry. 19 BY MR. POWERS: 20 Q. How is the looking at the mix of 21 controlled substances to all dispensing reflected 22 in any written documentation you reviewed to 23 determine whether a store should get a threshold 24 increase?</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. When you say we looked at the 2 store overall, who is "we"? 3 A. Either Andrea or myself, but 4 someone in government affairs. 5 Q. Anyone else besides Andrea ever 6 look at the stores to determine whether they 7 warranted a threshold increase? 8 MS. McENROE: Objection to form. 9 THE WITNESS: I think at some 10 point once we brought Amy Knisely on, she 11 may have looked at threshold increases. 12 BY MR. POWERS: 13 Q. And these three reports here on 14 the first three pages of Exhibit 4, those only 15 reflect the amount of products ordered. Right? 16 A. They do. 17 Q. So they don't have any insight, 18 those three reports don't have any insight into 19 what doctors are prescribing. Right? 20 MS. McENROE: Objection to form. 21 THE WITNESS: They do not. 22 BY MR. POWERS: 23 Q. They don't have any insight into 24 whether the prescriptions are being dispensed in</p>

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1 combination with other controlled substances.
 2 Right?
 3 A. They do not.
 4 Q. They don't reflect whether these
 5 particular prescriptions in dispensing are being
 6 done -- are being paid for in cash. Right?
 7 A. They do not.
 8 Q. And besides running these three
 9 reports to determine whether a store got a
 10 threshold increase, there was no other thing or
 11 things that you did every single time a store
 12 requested a threshold increase. Right?
 13 MS. McENROE: Objection to form.
 14 THE WITNESS: Could you repeat
 15 the question?
 16 BY MR. POWERS:
 17 Q. Sure. I'll break it down a
 18 little further.
 19 Did you run these three reports,
 20 the order history report, the dispensing history
 21 and the DUR report, every time a store requested
 22 a threshold increase?
 23 A. Yes.
 24 Q. Besides the three reports, did

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1 you do anything else every single time that a
 2 threshold increase was requested?
 3 A. Not every single time.
 4 Q. Individual Rite Aid stores could
 5 also order controlled substances, including
 6 opioids, from McKesson. Right?
 7 A. That is correct.
 8 Q. Did you ever compare the McKesson
 9 ordering history for a particular store when you
 10 were determining whether a store could get a
 11 threshold increase?
 12 MR. POWERS: Objection to form.
 13 MR. KELLY: Objection.
 14 THE WITNESS: The information
 15 that's reflected on these reports, the
 16 DUR and the dispensing, would include the
 17 McKesson product that was dispensed.
 18 So this would be a total of both
 19 the distribution center and the McKesson
 20 product.
 21 So that -- so when you see those
 22 numbers there, McKesson was included,
 23 because if the McKesson was -- product
 24 was dispensed, it would be included in

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1 the DUR.
 2 BY MR. POWERS:
 3 Q. You said included in the DUR.
 4 Would it be included in all three
 5 reports, including the dispensing history and the
 6 store order history in the same manner?
 7 A. Yes.
 8 Q. So if I'm looking at the second
 9 page of Exhibit 4 on page 15303, I'm looking
 10 there in the left-hand column under "Week
 11 Ending," "2010-11-27," and it says the quantity
 12 is 2,052.
 13 Do you see that?
 14 A. Yes.
 15 Q. So that 2,052 quantity would
 16 include the quantity distributed by Rite Aid, but
 17 also include the quantity distributed by McKesson
 18 as well?
 19 MS. McENROE: Objection to form.
 20 THE WITNESS: That is correct.
 21 BY MR. POWERS:
 22 Q. I should actually clarify that.
 23 The quantity of 2,052 would be
 24 the total amount dispensed by Rite Aid, supplied

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1 by both Rite Aid and McKesson. Right?
 2 A. That is correct.
 3 MR. KELLY: Objection to form.
 4 BY MR. POWERS:
 5 Q. And if you made the decision to
 6 adjust a threshold at a particular store, how did
 7 you communicate that decision?
 8 A. We would communicate it to the
 9 distribution center and to the pharmacy district
 10 manager of that particular store, that there
 11 would be a threshold increase.
 12 Q. How did you communicate?
 13 A. Typically email. And then we
 14 would provide a copy of this documentation to the
 15 distribution center for their file as well.
 16 Q. And when you say this
 17 documentation, you're referring to the reports
 18 reflected in Exhibit 4?
 19 A. Yes.
 20 Q. Why did you provide the
 21 documentation to the distribution center?
 22 A. So that if they had a DEA audit,
 23 they would be able to provide the DEA the
 24 reasoning and the usage to document why it was

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1 above the 5,000 dosage units.
2 MS. McENROE: Will, before we
3 move on, if it's a good time for lunch at
4 some point soon, if you'll let us know.
5 MR. POWERS: Yeah. Are you okay
6 to do one more document and then we can
7 break for lunch?
8 THE WITNESS: Sure.
9 MR. POWERS: Okay. Actually, you
10 know what, let's just take a break now
11 for lunch. That's fine.
12 MS. McENROE: Great.
13 THE VIDEOGRAPHER: Going off the
14 record at 12:38 p.m.
15 - - -
16 (A luncheon recess was taken from
17 12:38 p.m. to 1:30 p.m.)
18 - - -
19 THE VIDEOGRAPHER: Back on the
20 record at 1:30 p.m.
21 BY MR. POWERS:
22 Q. Welcome back, Ms. Hart.
23 A. Thank you.
24 Q. You understand that you're still

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1 under oath. Right?
2 A. I do.
3 Q. Could you turn back to Exhibit 4
4 there for a second.
5 Do you know whether store 3151 --
6 let me back up.
7 These reports are to determine
8 whether store 3151 gets a threshold increase.
9 Right?
10 A. Correct.
11 Q. Do you know if store 3151 did in
12 fact get a threshold increase?
13 A. I know they did.
14 Q. On the second page of Exhibit 4,
15 the dispensing history there, are those
16 quantities in dosage units?
17 A. They are.
18 Q. Why did store 3151 get a
19 threshold increase if all the quantities here are
20 under 5,000 dosage units?
21 A. There could be a few reasons for
22 that, based on when the order is received. Just
23 because you have -- just because you dispensed
24 less than 5,000 doesn't mean that there's not a

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1 flux from day to day to day. And there could
2 be an order in process where you're not going to
3 get it in a timely manner.
4 Q. What do you mean, an order in
5 process?
6 A. If you're going to dispense in a
7 week 4,464, for example, the second number there,
8 you have to have more than 4,464 on your shelf.
9 You could get to that quantity and dispense it,
10 and there may be no additional product on your
11 shelf. You have to make room for an order that
12 was shipped -- remember an order was once a week.
13 You have to make room for an order that was
14 shipped, allow it to get to the particular
15 pharmacy. And while it's in transit, you would
16 need more product on your shelf.
17 Q. So, for example, on the second
18 page of Exhibit 4 there, the middle column there,
19 it says, "Week Ending," and underneath it, it
20 says, "Week Ending," 2010-11-20." Right?
21 A. Yes.
22 Q. And that's 4,154 dosage units.
23 Right?
24 A. Which one are you at?

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1 Q. The week ending 11/20, I believe
2 the number is 4,154.
3 A. Correct.
4 Q. So in that instance, that would
5 be the total dispensing for that week in dosage
6 units. Right?
7 A. Correct.
8 Q. So I don't know if you can do the
9 math on the fly here, but it'd approximately be
10 about 846 dosage units left on the shelf after
11 that week. Right?
12 A. That is correct. But it's a
13 moving total from order to order. So that is
14 what should be on the shelf. But there's also
15 the movement of it as far as when you get your
16 order, when the order is actually shipped type
17 thing.
18 Q. So you don't actually have to be
19 ordering over -- or let me strike that.
20 You don't have to be dispensing
21 over the thresholds in dosage units to get a
22 threshold increase; is that correct?
23 MS. McENROE: Objection to form.
24 THE WITNESS: Typically you would

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1 look at, from this one here, when the
2 order was received from the store, when
3 it was shipped from the distribution
4 center, and would determine if you needed
5 an increase or not.
6 It's typical that they may not
7 reach that 5,000, but it's also, there
8 are circumstance where they would need
9 more than 5,000.
10 BY MR. POWERS:
11 Q. How did you make the
12 determination to increase the threshold of that
13 store 3151 based on this data here in Exhibit 4?
14 A. Andrea Bucher made the decision.
15 Q. Andrea Bucher made the decision
16 to increase the threshold?
17 A. Yes, yes.
18 Q. She said that you made the
19 decision.
20 MS. McENROE: Objection to form.
21 THE WITNESS: I'm sorry. She may
22 have talked to me about it, but this is
23 her calculation and her handwriting on
24 here.

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1 BY MR. POWERS:
2 Q. I'm not asking who calculated
3 these numbers or ran these numbers.
4 I'm asking who made the final
5 decision whether or not store 3151 would get a
6 threshold increase.
7 MS. McENROE: Objection to form.
8 BY MR. POWERS:
9 Q. Who did that?
10 A. I don't remember.
11 Q. Andrea Bucher's testimony was
12 that all she did was run the reports and then
13 handed it off to you and you made the decision.
14 A. That's quite possible.
15 MS. McENROE: Objection to form.
16 BY MR. POWERS:
17 Q. And you don't recall why in this
18 particular instance for store 3151 you gave them
19 a threshold increase?
20 A. I do not.
21 Q. Was there often confusion about
22 whether you or Andrea was going to make a
23 decision about whether to give a store a
24 threshold increase?

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1 MS. McENROE: Objection to form.
2 THE WITNESS: Andrea and I
3 discussed threshold increases back in the
4 time when we were distributing controlled
5 substances. Her office is directly next
6 door to mine. So it's not unusual for us
7 to discuss threshold increases.
8 BY MR. POWERS:
9 Q. Who had the ultimate say about
10 whether a store got a threshold increase?
11 A. I had the ultimate say.
12 Q. I'm going to hand you what's been
13 marked as Hart Exhibit 5.
14 - - -
15 (Deposition Exhibit No. Rite
16 Aid-Hart-5, Excel Spreadsheet Printout,
17 Bates stamped Rite_Aid_OMDL_0013151, was
18 marked for identification.)
19 - - -
20 THE WITNESS: Thank you.
21 BY MR. POWERS:
22 Q. It's, once again, a multiple-page
23 document. And it --
24 MS. McENROE: Will, do you have

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1 the Bates range for this? And can you
2 represent it's a complete document?
3 MR. POWERS: That's a good
4 question.
5 I can grab the Bates number
6 range.
7 I believe it's a native Excel
8 sheet, so --
9 MS. McENROE: And this is the
10 full printout of the full thing?
11 MR. POWERS: Yes.
12 The Bates number on the document
13 is Rite_Aid_OMDL_0013151.
14 MS. McENROE: Thank you.
15 And are these different workbooks
16 from the Excel spreadsheet? Because I'm
17 having a hard time. It kind of looked
18 like the columns are cut off.
19 MR. POWERS: I believe there are
20 different tabs in the spreadsheet.
21 MS. McENROE: Okay.
22 MR. POWERS: And I'll say right
23 now, I'm not going to get too much into
24 the substance of it, so I don't think

<p style="text-align: right;">Page 162</p> <p>1 that will matter about the different</p> <p>2 cutoffs and things.</p> <p>3 THE WITNESS: (Reviewing</p> <p>4 document.)</p> <p>5 BY MR. POWERS:</p> <p>6 Q. I realize the formatting might be</p> <p>7 a little bit off in Exhibit 5, but generally do</p> <p>8 you recognize what is reflected in Exhibit 5?</p> <p>9 MS. McENROE: Objection to form.</p> <p>10 THE WITNESS: I do.</p> <p>11 BY MR. POWERS:</p> <p>12 Q. What is Exhibit 5?</p> <p>13 A. It appears to be an above average</p> <p>14 report from the distribution center.</p> <p>15 Q. And that's the same above average</p> <p>16 report we were talking about before in relation</p> <p>17 to Exhibit 3. Right?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: That is true,</p> <p>20 though the document is not marked that</p> <p>21 it's from the Perryman Distribution</p> <p>22 Center.</p> <p>23 BY MR. POWERS:</p> <p>24 Q. How do you know it's from the</p>	<p style="text-align: right;">Page 164</p> <p>1 A. Above Average report, tech log,</p> <p>2 you know, depending on the person.</p> <p>3 Q. Do you know when the threshold</p> <p>4 logs were first started to be recorded?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: I believe there</p> <p>7 were always threshold logs at the</p> <p>8 distribution centers.</p> <p>9 BY MR. POWERS:</p> <p>10 Q. When you say "always," do you</p> <p>11 mean ever since your time at Rite Aid?</p> <p>12 A. Yes. Well, since the</p> <p>13 distribution center opened and started servicing</p> <p>14 the stores.</p> <p>15 Q. And are you referring to all</p> <p>16 distribution centers?</p> <p>17 A. Yes.</p> <p>18 Q. So all distribution centers since</p> <p>19 they opened kept threshold logs; is that right?</p> <p>20 A. To the best of my knowledge, that</p> <p>21 is.</p> <p>22 Q. Were all of the distribution</p> <p>23 centers using the same basic format to keep these</p> <p>24 threshold logs?</p>
<p style="text-align: right;">Page 163</p> <p>1 Perryman Distribution Center?</p> <p>2 A. I don't know that it's from the</p> <p>3 Perryman Distribution Center.</p> <p>4 Q. Oh, I see what you're saying.</p> <p>5 You're saying Exhibit 3 was for</p> <p>6 Perryman Distribution Center and you're not sure</p> <p>7 if this threshold log is from Perryman</p> <p>8 Distribution Center; is that right?</p> <p>9 A. Correct. Because I didn't see it</p> <p>10 marked anywhere on the log.</p> <p>11 Q. Okay. These -- the document in</p> <p>12 front of you marked as Exhibit 5, can we agree to</p> <p>13 call that a threshold log?</p> <p>14 A. Yes.</p> <p>15 Q. Is that the term that was used in</p> <p>16 the distribution centers to refer to a document</p> <p>17 like this, Exhibit 5?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: I think there were</p> <p>20 various terms for it, but all the general</p> <p>21 term overall.</p> <p>22 BY MR. POWERS:</p> <p>23 Q. What were some of the various</p> <p>24 terms it was referred to as?</p>	<p style="text-align: right;">Page 165</p> <p>1 A. I don't know that.</p> <p>2 Q. Did you ever review these</p> <p>3 threshold logs in your position in government</p> <p>4 affairs?</p> <p>5 A. I had reviewed some of these</p> <p>6 logs, yes.</p> <p>7 Q. Did you review the threshold logs</p> <p>8 periodically?</p> <p>9 A. Periodically, yes.</p> <p>10 Q. Was it on any set schedule?</p> <p>11 A. A few times a year, quarterly.</p> <p>12 Q. So every three months</p> <p>13 approximately. Is that fair?</p> <p>14 A. Yes. Approximate, yes.</p> <p>15 Q. Did anyone else review these</p> <p>16 threshold logs at the corporate office?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I believe Chris</p> <p>19 Belli and Kevin Mitchell received these</p> <p>20 logs as well.</p> <p>21 BY MR. POWERS:</p> <p>22 Q. Do you know why Kevin Mitchell</p> <p>23 and Chris Belli received the threshold logs?</p> <p>24 MS. McENROE: Objection to form.</p>

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1 THE WITNESS: To review them and
2 make sure that their personnel and that
3 their associates were doing what they
4 were supposed to be doing.
5 BY MR. POWERS:
6 Q. How would the threshold logs
7 demonstrate that?
8 A. Simply having the log, completing
9 the log, making sure that that log is part of the
10 standard operating procedures.
11 Q. Do you know if they were viewed
12 for any other purpose besides that?
13 MS. McENROE: Objection to form.
14 THE WITNESS: I do not know.
15 BY MR. POWERS:
16 Q. You said you reviewed these logs
17 quarterly. Right? Approximately quarterly?
18 A. Approximately quarterly, yes.
19 Q. Why were you receiving these
20 logs -- or let me rephrase that.
21 Why were you reviewing these logs
22 quarterly?
23 A. To look at the quantities
24 ordered, to eyeball the report to see if there

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1 was any store that stuck out as, you know,
2 continuously appearing on the logs. Just to look
3 for any abnormalities.
4 Q. Did you use any set criteria to
5 determine whether a store was ordering out of
6 pattern or was appearing as an abnormality?
7 A. I did not.
8 Q. It just was your own feeling
9 about it?
10 A. And it should also --
11 MS. McENROE: Objection to form.
12 THE WITNESS: It should also be
13 noted that not all the drugs on this list
14 are controlled substances.
15 BY MR. POWERS:
16 Q. Why does that matter?
17 A. It's -- those -- if they're not a
18 controlled substance, there's no -- they're not
19 subject to quantities or things like that.
20 We have individual standards
21 established for some of the products, but they're
22 not involved in the -- in the distribution of
23 controlled substances.
24 Q. I was asking before about whether

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1 you used any criteria to determine whether the
2 store was ordering abnormally.
3 And you said no. Right?
4 A. Nope.
5 Q. So you're just using your own
6 feeling about whether a store is ordering
7 abnormally. Right?
8 MS. McENROE: Objection to form.
9 THE WITNESS: That is correct.
10 BY MR. POWERS:
11 Q. Was there anyone else who
12 reviewed these logs besides Chris Belli, Kevin
13 Mitchell and yourself?
14 MS. McENROE: Objection to form.
15 THE WITNESS: Not that I know of.
16 BY MR. POWERS:
17 Q. Besides reviewing the logs for
18 abnormalities quarterly, did you use the logs in
19 any other way?
20 A. Not that I remember.
21 Q. What would you do if you
22 discovered an abnormality in one of these logs?
23 A. If I discovered an abnormality in
24 one of the logs, I would reach out to the

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1 pharmacy district manager and tell them of the
2 order and have them investigate the order and why
3 it was placed.
4 Q. Did you ever do that?
5 A. I'm sure I did.
6 Q. Where would the record of those
7 communications be?
8 MS. McENROE: Objection to form.
9 THE WITNESS: Some may be in
10 email. Some may be verbal.
11 BY MR. POWERS:
12 Q. When you say verbal, do you mean
13 a phone call?
14 A. Yes.
15 Q. When you communicated with the
16 pharmacy district manager about one of these
17 abnormalities that you identified, what would you
18 discuss?
19 MS. McENROE: Objection to form.
20 THE WITNESS: I would discuss how
21 the order is placed, what quantity was
22 ordered and was there a need for the
23 increase at the store from the
24 distribution center. And also was the

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1 order placed in error, was the order --
2 did there need to be an asset protection
3 investigation, things along those lines.
4 BY MR. POWERS:
5 Q. Did you make a record of those
6 communications at all?
7 A. If I did, it would be in email.
8 Typically it may be a phone call.
9 Q. So besides an email, there was
10 no -- there was no log of these communications
11 that you would have had with the distribution --
12 or, excuse me -- with the individual pharmacy
13 managers about particular stores that you had
14 questions about from the threshold log; is that
15 right?
16 A. Pharmacy district managers. And
17 that is right.
18 Q. Do you ever recall noticing
19 abnormalities of stores consistently ordering
20 hydrocodone products?
21 A. There could be stores that
22 consistently ordered hydrocodone, of course.
23 Q. But I'm saying in this process
24 we've just talked about, where you contact the

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1 pharmacy district manager as a result of the
2 threshold log, do you specifically recall any
3 instances where you contacted the pharmacy
4 district manager as a result of hydrocodone
5 orders?
6 A. I don't remember specific to
7 hydrocodone.
8 Q. How about specific to any opioid
9 product that Rite Aid distributed?
10 MS. McENROE: Objection to form.
11 THE WITNESS: I do not.
12 BY MR. POWERS:
13 Q. Did you use these threshold logs
14 that you were reviewing quarterly to determine
15 whether particular orders were suspicious orders?
16 A. I did not.
17 Q. Do you know if Chris Belli and
18 Kevin Mitchell used these logs to determine if
19 orders were suspicious orders?
20 MS. McENROE: Objection to form.
21 THE WITNESS: I do not.
22 BY MR. POWERS:
23 Q. To be clear, when you got these
24 threshold logs, these orders reflected in the

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1 threshold logs had already been shipped.
2 Correct?
3 A. Yes.
4 Q. I'm going to hand you what's been
5 marked as Rite Aid Exhibit Number -- or Rite
6 Aid_Hart Exhibit Number 6. It's a multi-page
7 document with the Bates number
8 Rite_Aid_OMDL_46227 through 46319. It's a pretty
9 long document. I'm just going to ask you
10 questions about the first page.
11 MS. McENROE: And, Will, do
12 you -- can you reference this is a
13 complete document?
14 MR. POWERS: I believe, once
15 again, it's the range that was identified
16 in the interrogatory responses.
17 - - -
18 (Deposition Exhibit No. Rite
19 Aid-Hart-6, Rite Aid Controlled Drug
20 Reporting Above Average Controlled Drug
21 Purchases Report, Bates stamped
22 Rite_Aid_OMDL_0046227 through
23 Rite_Aid_OMDL_0046319, was marked for
24 identification.)

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1 - - -
2 THE WITNESS: (Reviewing
3 document.)
4 BY MR. POWERS:
5 Q. Do you recognize the exhibit
6 reflected -- do you recognize the document
7 reflected in Exhibit 6?
8 A. I do.
9 Q. What is this?
10 A. "Above Average Controlled Drug
11 Purchases Report."
12 Q. And can you explain what this
13 document -- or how this document was used?
14 MS. McENROE: Objection to form.
15 THE WITNESS: I believe asset
16 protection would run this report on a
17 monthly basis to identify where there was
18 the potential for the above average
19 purchase of controlled substances for a
20 particular drug.
21 BY MR. POWERS:
22 Q. Did you ever review a report like
23 this in Exhibit 6 personally?
24 A. I don't ever remember reviewing

<p style="text-align: right;">Page 174</p> <p>1 this report. I believe it was more asset 2 protection. 3 Q. Do you know if this report was 4 used to determine whether orders were suspicious 5 orders or not? 6 MS. McENROE: Objection to form. 7 THE WITNESS: I do not know that. 8 BY MR. POWERS: 9 Q. Does anyone in government affairs 10 besides yourself regularly review the report as 11 reflected in Exhibit 6? 12 MS. McENROE: Objection to form. 13 THE WITNESS: I do not know if 14 Mr. Krahulec had gotten the report prior 15 to me coming on. And I'm not sure of 16 that. 17 BY MR. POWERS: 18 Q. But to the best of your personal 19 knowledge, in the time that you were in 20 government affairs, no one else in government 21 affairs reviewed reports like the one represented 22 in Exhibit 6? 23 MS. McENROE: Objection to form. 24 THE WITNESS: That is correct.</p>	<p style="text-align: right;">Page 176</p> <p>1 about NaviScript and NaviCase, but that would be 2 the asset protection team at the corporate office 3 that would be involved in that as well. 4 Q. So we've discussed all the facets 5 of the Rite Aid suspicious order monitoring 6 program so far; is that correct? 7 MS. McENROE: Objection to form. 8 THE WITNESS: That I can recall, 9 yes. 10 BY MR. POWERS: 11 Q. And to be clear, we've talked 12 about the -- the operating procedure in -- which 13 was entitled either Excessive Order Monitoring or 14 Suspicious Order Monitoring, and that was 15 represented in Exhibits 1 and 2. Right? 16 A. Correct. 17 Q. We talked about the controlled 18 drug above average order monitoring program 19 policy and procedure reflected in Exhibit 3. 20 Right? That's the one used at the Perryman 21 Distribution Center? 22 MS. McENROE: Objection to form. 23 THE WITNESS: Yes, that is 24 correct.</p>
<p style="text-align: right;">Page 175</p> <p>1 BY MR. POWERS: 2 Q. So I asked you a little while ago 3 whether or not Rite Aid had a suspicious order 4 monitoring program. Right? 5 A. Yes. 6 Q. And we've talked about a couple 7 different documents so far. 8 And in addition to the documents 9 I've shown you, we've talked about the NaviScript 10 system and the order replenishment system. 11 Right? 12 A. Yes. 13 Q. Is there anything else that we 14 have not talked about that you would consider 15 part of Rite Aid's suspicious order monitoring 16 system? 17 MS. McENROE: Objection to form. 18 THE WITNESS: Did you mention the 19 threshold at the distribution center? 20 BY MR. POWERS: 21 Q. I meant to include that in the 22 documents that we were talking about. 23 A. Okay. 24 And I would include, we talk</p>	<p style="text-align: right;">Page 177</p> <p>1 BY MR. POWERS: 2 Q. We've talked about the reports 3 run to increase the threshold amount and the 4 process to increase the threshold amount for 5 particular stores. Right? 6 A. Yes, we have. 7 Q. And we've talked about the 5,000 8 dosage unit threshold. Right? 9 A. Yes, we have. 10 Q. And we've talked about the auto 11 replenishment system and the NaviScript/Navi -- 12 the Navi systems. Right? 13 MS. McENROE: Objection to form. 14 THE WITNESS: Yes, we have. 15 BY MR. POWERS: 16 Q. And that -- those things I just 17 mentioned, those are all the elements to the Rite 18 Aid suspicious order monitoring program. 19 Correct? 20 MS. McENROE: Objection to form. 21 BY MR. POWERS: 22 Q. And actually, let me back up. 23 We also talked about the 24 threshold logs, too. Right?</p>

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1 A. That is correct.
 2 Q. So all those things I just
 3 mentioned, as reflected in Exhibits 1 through 5
 4 and as well as the NaviScript system, the auto
 5 replenishment system and the threshold of 5,000
 6 dosage units, those elements fully represent the
 7 Rite Aid suspicious order monitoring system.
 8 Right?
 9 MS. McENROE: Objection to form.
 10 THE WITNESS: That I can recall
 11 at this time.
 12 BY MR. POWERS:
 13 Q. Are you familiar with the Buzzeo
 14 company?
 15 A. I am.
 16 Q. Is it also called -- I don't know
 17 how to pronounce this exactly, but Cegedim?
 18 A. I am.
 19 Q. It's the same company?
 20 A. (Witness nods head.)
 21 Q. You have to answer --
 22 A. Yes. I'm sorry, yes.
 23 Q. So if we just refer to it --
 24 throughout our discussion, I can just refer to it

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1 as the Buzzeo company, we'll know what we're
 2 talking about?
 3 A. That's fine, yes.
 4 Q. What kind of services did Buzzeo
 5 offer?
 6 MS. McENROE: Objection to form.
 7 THE WITNESS: Ron Buzzeo offered
 8 services related to regulatory compliance
 9 with DEA rules and regulations. There
 10 was a wealth of services that Ron and his
 11 company offered.
 12 They offered a program to go into
 13 pharmacies and review the pharmacies as
 14 far as compliance with DEA rules and
 15 regulations. They offered programs on
 16 suspicious order monitoring. They
 17 ordered up programs on how to detect
 18 theft and diversion. There was a wide
 19 gamut of programs that they had offered
 20 related to controlled substances.
 21 BY MR. POWERS:
 22 Q. Did Rite Aid ever use any of
 23 those Buzzeo services?
 24 A. I believe we did, yes.

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1 Q. What was the extent of Rite Aid's
 2 use of Buzzeo services?
 3 A. Our logistics teams utilized
 4 Buzzeo services to review and inspect the
 5 distribution centers for compliance.
 6 Q. Are you referring to audits when
 7 you say review and inspect?
 8 MS. McENROE: Objection to form.
 9 THE WITNESS: Define what you
 10 mean by "audit."
 11 BY MR. POWERS:
 12 Q. There's been testimony that
 13 Buzzeo company came in and audited the Perryman
 14 Distribution Center at some point in time.
 15 Is that the same thing you're
 16 referring to when you say reviewed and inspected?
 17 MS. McENROE: Objection to form.
 18 THE WITNESS: I guess there's two
 19 terms for the definition "audit."
 20 There's an audit of everything in
 21 the entire distribution center, from
 22 paperwork to security to everything along
 23 those lines. And then there's an
 24 individual audit for like specific

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1 controlled substances, so that you would
 2 balance when a controlled substance came
 3 in and when it came out to make sure that
 4 all the drugs in the distribution center
 5 were accounted for. So, yes, I would say
 6 that would be an audit.
 7 BY MR. POWERS:
 8 Q. Did Buzzeo ever perform audits on
 9 Rite Aid facilities, as you just described an
 10 audit?
 11 A. I believe he did at the Perryman
 12 Distribution Center.
 13 Q. Do you know when that was?
 14 A. I don't remember.
 15 Q. Were you involved in that process
 16 of Buzzeo auditing the Perryman Distribution
 17 Center?
 18 A. I was not.
 19 Q. You also mentioned that Buzzeo
 20 had conferences. Right?
 21 A. I don't think I mentioned
 22 conferences.
 23 Q. Did Buzzeo have conferences?
 24 A. Buzzeo had conferences.

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1 Q. Did you ever attend any of the
 2 Buzzeo conferences personally?
 3 A. I may have attended one
 4 conference when I first came into government
 5 affairs, but that was pretty much the extent of
 6 my attending Buzzeo conferences.
 7 Q. Do you know if anyone else from
 8 Rite Aid attended Buzzeo conferences?
 9 A. Yes. Members of the logistics
 10 team would attend the conferences.
 11 Q. Who from the logistics team would
 12 attend the Buzzeo conferences?
 13 A. It varied from year to year, but
 14 typically either the person that was in the
 15 position of Kevin Mitchell or Chris Belli. I
 16 know that occasionally the DEA coordinators would
 17 attend the Buzzeo conference.
 18 Q. When you say "DEA coordinators,"
 19 you're talking about distribution center
 20 employees?
 21 A. Yes.
 22 Q. I am going to hand you what's
 23 been marked as Exhibit 7. It's a one-page email
 24 Bates stamped Rite_Aid_OMDL_0050632.

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1 - - -
 2 (Deposition Exhibit No. Rite
 3 Aid-Hart-7, Email chain, top one dated
 4 2010-11-16, Bates stamped
 5 Rite_Aid_OMDL_0050632, was marked for
 6 identification.)
 7 - - -
 8 BY MR. POWERS:
 9 Q. In Exhibit 7 there, it looks like
 10 an email chain between you and Kevin Mitchell in
 11 2010; is that right?
 12 A. That is correct.
 13 Q. And in the second to last email
 14 on -- towards the top of the page on Exhibit 7,
 15 Kevin Mitchell writes to you, Janet Hart, and
 16 says, "When I get back to the office next week,
 17 we need to talk about Suspicious order
 18 monitoring... at Buzzeo's conference last week
 19 and what we have in place probably isn't
 20 sufficient anymore. I'll give you a shout so
 21 that we can 'brain-storm.'"
 22 Do you see that?
 23 A. I do.
 24 Q. So from this email, I take it

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1 that Kevin Mitchell went to a Buzzeo conference.
 2 Correct?
 3 A. It appears so.
 4 Q. Do you know who decided who was
 5 able to go to the Buzzeo conferences?
 6 A. I don't know. I was a different
 7 department from logistics, and since logistics
 8 had jurisdiction over the cage, they would
 9 decide. If I chose to go, I would ask my boss
 10 and say, can I go to the Buzzeo concert --
 11 conference.
 12 Q. And it looks like Kevin Mitchell
 13 is -- wants to talk to you about suspicious order
 14 monitoring, because he thinks that what Rite Aid
 15 has in place isn't sufficient anymore. Right?
 16 MS. McENROE: Objection to form.
 17 THE WITNESS: That's what's on
 18 the communication.
 19 BY MR. POWERS:
 20 Q. And then you respond to him at
 21 the top there, "Sounds good." Right?
 22 A. Correct.
 23 Q. And the date on that email in
 24 Exhibit 7 is November 2010. Right?

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1 A. Yes.
 2 - - -
 3 (Deposition Exhibit No. Rite
 4 Aid-Hart-8, Email chain, top one dated
 5 2010-11-17, Bates stamped
 6 Rite_Aid_OMDL_0050633, was marked for
 7 identification.)
 8 - - -
 9 BY MR. POWERS:
 10 Q. I'm going to hand you what's been
 11 marked as Exhibit 8. It is another email, one
 12 page, with Bates number Rite_Aid_OMDL_0050633.
 13 Exhibit 8, the bottom email there
 14 is from you, Janet Hart, to Maggie Perritt, Kevin
 15 Mitchell, Andrew Palmer. And it looks like you
 16 copied yourself as well. Right?
 17 A. Yes.
 18 Q. And the subject line of that
 19 email is "Suspicious Monitoring." Right?
 20 A. Yes.
 21 Q. And you're asking that group of
 22 people you sent the email to, "Can we" have a
 23 "meeting at 10:30? I have a meeting at the
 24 capitol at 9."

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1 Do you see that?

2 A. Yes.

3 Q. Do you know if this meeting

4 you're referring to in Exhibit 8 is a follow-up

5 to Kevin Mitchell's email on Exhibit 7 about

6 wanting to talk about Rite Aid's suspicious

7 monitoring?

8 A. I believe so.

9 Q. And why did you send this to

10 Maggie Perritt?

11 Am I pronouncing her name

12 correctly?

13 A. Yeah, you're pronouncing it

14 correctly.

15 Q. Why did you send this email about

16 suspicious order monitoring to Maggie Perritt?

17 A. Maggie Perritt was in pharmacy

18 operations and was knowledgeable of the

19 suspicious order monitoring algorithm and how the

20 system worked.

21 Q. When you say "suspicious order

22 monitoring algorithm," what are you referring to?

23 A. The algorithm for placing the

24 [REDACTED]

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1 [REDACTED]

2 to place the order.

3 Q. Is that also the auto

4 replenishment system that we talked about before?

5 A. Yes.

6 Q. Why are you referring to it as a

7 suspicious order monitoring system?

8 MS. McENROE: Objection, form.

9 THE WITNESS: In this one, since

10 it's under suspicious monitoring, that's

11 why I was referring to that, is that --

12 because that was the title of this

13 particular meeting and she was bringing

14 that aspect of it into it.

15 BY MR. POWERS:

16 Q. So Maggie Perritt was the expert

17 on the auto replenishment system that was invited

18 to the suspicious order monitoring meeting; is

19 that right?

20 MS. McENROE: Objection to form.

21 THE WITNESS: From the pharmacy

22 operations side, yes.

23 BY MR. POWERS:

24 Q. And then we talked about Kevin

Page 188

1 Mitchell.

2 Who was Andrew Palmer?

3 A. Andrew Palmer was a director in

4 asset protection at the time, I believe.

5 Q. Why did you invite him to this

6 meeting about suspicious order monitoring?

7 A. Because he was also key as part

8 of it as well. Him and his team were involved

9 with the analytics related to asset protection

10 and the analytics related to the key performance

11 indicators that were looked at from the asset

12 protection side.

13 Q. How did you use the -- let me

14 back up.

15 Did you use the asset protection

16 analytics to determine whether orders were

17 suspicious or not?

18 MS. McENROE: Objection to form.

19 THE WITNESS: We used the asset

20 protection analytics to review orders and

21 look for abnormalities. We did not use

22 the analytics from asset protection prior

23 to an order being shipped.

24 BY MR. POWERS:

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1 Q. So you only used the asset

2 protection analytics after the order was shipped;

3 is that right?

4 A. To the best of my knowledge, yes.

5 Q. And at this meeting referred to

6 in Exhibit 8, do you know what was discussed

7 about why Kevin Mitchell thought that the Rite

8 Aid suspicious order monitoring wasn't sufficient

9 anymore?

10 MS. McENROE: Objection to form.

11 THE WITNESS: Can you ask that

12 question again?

13 BY MR. POWERS:

14 Q. Sure.

15 We saw in Exhibit 7 Kevin

16 Mitchell saying that Rite Aid's suspicious order

17 monitoring system probably isn't sufficient

18 anymore.

19 Do you recall that?

20 A. I do.

21 Q. Okay. And then you eventually

22 had a meeting to discuss the suspicious order

23 monitoring program at Rite Aid. Right?

24 A. It appears so, yes.

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1 Q. And Kevin Mitchell was at that
2 meeting. Right?
3 A. Yes.
4 Q. What did Kevin Mitchell -- why
5 did Kevin Mitchell think that the Rite Aid
6 suspicious order monitoring program wasn't
7 sufficient anymore?
8 MS. McENROE: Objection to form.
9 THE WITNESS: I think Kevin's
10 thought process on the meeting and what
11 he wanted to discuss was that the 5,000
12 tablet dosage limit was not sufficient to
13 be a suspicious order monitoring program.
14 At the meeting, what was discussed and
15 why I invited Andy Palmer and Maggie
16 Perritt is everybody had a piece of the
17 puzzle, but everybody was not on the same
18 page. So we had to put everybody on the
19 same page as far as the program, to
20 understand the program in its entirety.
21 BY MR. POWERS:
22 Q. Who was in charge of the program
23 in its entirety?
24 MS. McENROE: Objection to form.

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1 THE WITNESS: Kevin Mitchell.
2 BY MR. POWERS:
3 Q. So the person who was in charge
4 of the program in its entirety didn't understand
5 it; is that right?
6 MS. McENROE: Objection to form.
7 THE WITNESS: I didn't say he
8 didn't understand it. I said he -- or I
9 meant he didn't understand all of the
10 components.
11 BY MR. POWERS:
12 Q. So the person in charge of the
13 program did not understand all of the components
14 of the program; right?
15 MS. McENROE: Objection to form.
16 THE WITNESS: I believe that to
17 be true.
18 BY MR. POWERS:
19 Q. Did you make any changes as a
20 result of this meeting in 2011 to the suspicious
21 order monitoring program at Rite Aid?
22 A. I do not believe so.
23 Q. What roles did Andy Palmer and
24 Maggie Perritt play in the suspicious order

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1 monitoring program?
2 MS. McENROE: Objection to form,
3 asked and answered.
4 BY MR. POWERS:
5 Q. Let me back up and let me break
6 that question down.
7 What role did Andy Palmer play in
8 the suspicious order monitoring program?
9 A. Andy Palmer brought the asset
10 protection portion of the program.
11 Q. And when you say asset
12 protection, that refers to theft or loss of
13 physical product; is that correct?
14 MS. McENROE: Objection to form.
15 THE WITNESS: Asset protection
16 was not just simply theft or loss of
17 product. Asset protection had many KPIs
18 at their fingertips in order to look at
19 ordering parameters from a store, in
20 order to look at, from a store
21 perspective, cycle counts down. In a
22 store, there was various things that they
23 looked at and developed in response to
24 ordering and cycle counts.

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1 BY MR. POWERS:
2 Q. But those -- I think you said
3 those asset protection analytics were not used to
4 identify suspicious orders, were they?
5 MS. McENROE: Objection to form.
6 THE WITNESS: They were used to
7 look at ordering of the stores and
8 identify abnormalities after the fact.
9 BY MR. POWERS:
10 Q. So is the answer no, they were
11 not -- the analytics were not used to identify
12 suspicious orders. Right?
13 MS. McENROE: Objection to form.
14 THE WITNESS: They were not
15 utilized to identify suspicious orders.
16 BY MR. POWERS:
17 Q. And Maggie Perritt's role at that
18 meeting reflected in Exhibit 8 was to be the
19 expert on auto replenishment system. Right?
20 A. That is correct.
21 Q. I'm going to hand you what's been
22 marked as Hart Exhibit 9.
23 - - -
24 (Deposition Exhibit No. Rite

<p style="text-align: right;">Page 194</p> <p>1 Aid-Hart-9, Email chain top one dated 2 Email dated 2010-04-11, Bates stamped 3 Rite_Aid_OMDL_0050628 through 4 Rite_Aid_OMDL_0050630, was marked for 5 identification.) 6 - - - 7 BY MR. POWERS: 8 Q. This is Rite_Aid_OMDL_0050628 9 through 0050630. Take a look at that. 10 A. (Reviewing document.) 11 Q. So Exhibit 9 looks like an email 12 exchange. 13 And it's an email at the top 14 there of Exhibit -- the first page of Exhibit 9 15 that is forwarded from Kevin Mitchell to you, 16 Janet Hart, in 2011. Correct? 17 A. Yes. 18 Q. And the title of the email is 19 "Suspicious Order Monitoring." Right? 20 A. Yes. 21 Q. And it looks like Kevin Mitchell 22 is forwarding you an email from Kimberly Birklin. 23 Correct? There at the second email on the first 24 page?</p>	<p style="text-align: right;">Page 196</p> <p>1 doesn't it? 2 A. Yes. 3 Q. And this Cegedim page, this is 4 also the same thing as the Buzzeo company we've 5 been discussing. Correct? 6 A. Yes. 7 Q. And Kevin Mitchell forwards this 8 email from Kimberly Birklin to you, Janet Hart, 9 asking, "We never put anything in writing for 10 this... can we?" 11 Do you see that? 12 A. I do. 13 Q. Do you know what Kevin Mitchell 14 was referring to there about putting something in 15 writing? 16 A. I believe after Andy, Maggie, 17 Andy and myself and Kevin got together and 18 determined that our suspicious order monitoring 19 program was in fact compliant, Kevin wanted a 20 document to provide to the distribution centers 21 of the program, so that if they were -- had a DEA 22 inspection, they would be able to provide an 23 outline. 24 Q. You said that you determined that</p>
<p style="text-align: right;">Page 195</p> <p>1 A. Yes. 2 Q. Who is Kimberly Birklin? 3 A. Kimberly Birklin was the DEA 4 coordinator for the Liverpool Distribution 5 Center. 6 Q. And also in that email from 7 Kimberly Birklin, she copies Beth Mawhinney. 8 Do you know who that is? 9 A. Yes. I believe it's another 10 individual at the Liverpool Distribution Center. 11 Q. And Kimberly appears to be asking 12 about "SOM procedures for our building." And she 13 says, "Do you know if we are moving in this 14 direction for our order management system?" 15 Do you see that? 16 A. I do. 17 Q. And she puts a link there, and it 18 looks like it's a link to Cegedim.com. Right? 19 A. Yes. 20 Q. And then on the next page of 21 Exhibit 9, it looks like there's a screenshot she 22 included in her email. And it looks like it's a 23 screenshot of a -- it looks like it's a 24 suspicious order monitoring program there,</p>	<p style="text-align: right;">Page 197</p> <p>1 the Rite Aid system was compliant. 2 How did you make that 3 determination? 4 A. We looked at the different 5 components of it and determined that, because of 6 the Code of Federal Regulations, the DEA not 7 providing true guidance on a suspicious order 8 monitoring program, we met the -- we met the 9 requirements of that. 10 Q. What do you mean by the DEA -- 11 when you said the DEA did not provide true 12 guidance? 13 A. The DEA did not put out what an 14 order -- a suspicious order monitoring program 15 should look at exactly. They would say that it 16 should meet your book of business, but they never 17 put out a list of -- suspicious order monitoring 18 must be numbers 1 through 8 that you must have in 19 your program. 20 Q. Did you look at anything else 21 besides the Code of Federal Regulations itself to 22 determine that your suspicious order monitoring 23 system was compliant? 24 A. I don't remember if we did or</p>

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1 not.

2 Q. Did you look at any Buzzeo

3 materials to determine whether it was compliant

4 or not?

5 A. We did not.

6 Q. Did you look at other

7 distributors' suspicious order monitoring

8 programs to determine whether your Rite Aid

9 system was compliant?

10 MS. McENROE: Objection to form.

11 THE WITNESS: We did not, from

12 the perspective of our system was

13 different than other distributors and our

14 system was different from the Buzzeo

15 programs that were offered in the fact

16 that we were a closed system. Part of

17 other distributors that are out there,

18 their system was know -- part of it is

19 know your customer, where obviously we

20 know our customer. And so we looked at

21 it from that approach.

22 BY MR. POWERS:

23 Q. When you say you know your

24 customer, are you referring to the customers as

Page 199

1 the individual Rite Aid stores?

2 A. I am.

3 Q. So in your view, you never got

4 DEA guidance on the sufficiency of Rite Aid's

5 suspicious order monitoring program; is that

6 right?

7 MS. McENROE: Objection to form.

8 THE WITNESS: We never got DEA

9 guidance.

10 - - -

11 (Deposition Exhibit No. Rite

12 Aid-Hart-10, Email dated 2011-06-03,

13 Bates stamped Rite_Aid_OMDL_0050634, was

14 marked for identification.)

15 - - -

16 BY MR. POWERS:

17 Q. I'm going to hand you what's been

18 marked as Exhibit 10. The Bates number on this

19 document is Rite_Aid_OMDL_0050634.

20 A. (Reviewing document.)

21 Q. So the exhibit marked as

22 Exhibit 10 looks like an email from Kevin

23 Mitchell to you, Janet Hart.

24 And it's dated 2011, June 3rd.

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1 Right?

2 A. Yes.

3 Q. Kevin Mitchell writes to you, "We

4 need to get the explanation on suspicious order

5 monitoring in writing. I Thought Maggie was

6 going to put something in writing. Did you ever

7 get anything?"

8 Do you see that?

9 A. I do.

10 Q. What is this email referencing?

11 A. I believe it's referencing the

12 previous -- one of the previous emails that we

13 went over, as far as getting together a one-page

14 document to provide to the distribution centers

15 for their DEA inspections.

16 Q. Do you know if that document was

17 ever put together?

18 A. To the best of my knowledge, it

19 was not.

20 Q. Do you know what would have been

21 included in such a document?

22 MS. McENROE: Objection to form.

23 THE WITNESS: All of the

24 components of what we've been discussing,

Page 201

1 the thresholds, automatic -- auto

2 replenishment, the asset protection piece

3 of the program.

4 BY MR. POWERS:

5 Q. Do you know why Maggie Perritt

6 never put that document together?

7 A. I believe she left the company.

8 Q. And no one else did it instead of

9 Maggie Perritt?

10 MS. McENROE: Objection to form.

11 THE WITNESS: I believe there was

12 a lapse somewhere in the process to

13 replace her. It wasn't an automatic

14 person that came on board.

15 MS. McENROE: When you got a

16 chance, we have been going about an hour,

17 for a quick break.

18 MR. POWERS: Okay. I got it.

19 Just a couple more questions on this

20 line.

21 MS. McENROE: Sure.

22 - - -

23 (Deposition Exhibit No. Rite

24 Aid-Hart-11, Email chain, top one dated

<p style="text-align: right;">Page 202</p> <p>1 2002-05-14, Bates stamped</p> <p>2 Rite_Aid_OMDL_0046770 through</p> <p>3 Rite_Aid_OMDL_0046789, was marked for</p> <p>4 identification.)</p> <p>5 - - -</p> <p>6 BY MR. POWERS:</p> <p>7 Q. I should have asked you.</p> <p>8 Are you okay to go a few more</p> <p>9 minutes?</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. I'm going to hand you what's</p> <p>12 marked Exhibit 11. It's a document, an email and</p> <p>13 attachment, Bates number Rite_Aid_OMDL_0046770</p> <p>14 through 46789.</p> <p>15 A. (Reviewing document.)</p> <p>16 Q. Are you familiar with the</p> <p>17 document in Exhibit 11?</p> <p>18 A. (Reviewing document.)</p> <p>19 Q. I'll say that I'm not going to</p> <p>20 ask you direct questions about the email</p> <p>21 attachment.</p> <p>22 I'm just saying, are you</p> <p>23 generally familiar with this document in</p> <p>24 Exhibit 11?</p>	<p style="text-align: right;">Page 204</p> <p>1 above that. Right?</p> <p>2 A. That is correct.</p> <p>3 Q. And then you -- then you forward</p> <p>4 it on to Christopher Belli at the very top there.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you forward this along to</p> <p>8 Christopher Belli?</p> <p>9 A. At this particular time, Chris</p> <p>10 Belli had replaced Kevin Mitchell and was</p> <p>11 responsible for the DEA coordinators and</p> <p>12 logistics side of it.</p> <p>13 Q. And you ask Christopher Belli,</p> <p>14 "Did you set up the webinar and/or visit?"</p> <p>15 Do you see that?</p> <p>16 A. I did.</p> <p>17 Q. What were you referring to when</p> <p>18 you said that?</p> <p>19 A. I don't remember.</p> <p>20 Q. And it looks like the attachment</p> <p>21 to the email is another document from the Cegedim</p> <p>22 organization. Right?</p> <p>23 A. Yes.</p> <p>24 Q. And that's the same one we've</p>
<p style="text-align: right;">Page 203</p> <p>1 A. Yes.</p> <p>2 Q. It looks like in the first page,</p> <p>3 on the first and second page, the emails,</p> <p>4 Exhibit 11, it looks like the first one in the</p> <p>5 string is from Gerald Haas to a group of people.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. At the bottom of the first page?</p> <p>9 A. Yes.</p> <p>10 Q. Who is Gerald Haas?</p> <p>11 A. I don't remember Gerald.</p> <p>12 Q. He says, "Attached is a</p> <p>13 presentation that was given to me by the</p> <p>14 Liverpool DEA team from their recent" attendant</p> <p>15 "at a conference."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And then right above Gerald's</p> <p>19 email, William Miller emails the same -- forwards</p> <p>20 the same email and the attached presentation to</p> <p>21 Sophia Lai. Right?</p> <p>22 A. That is correct.</p> <p>23 Q. And Sophie Lai then goes -- goes</p> <p>24 ahead and forwards on that same email to you</p>	<p style="text-align: right;">Page 205</p> <p>1 been talking about, the Buzzeo people. Right?</p> <p>2 A. Yes.</p> <p>3 Q. So were you asking whether or not</p> <p>4 Chris Belli was setting up webinars and visits</p> <p>5 with the Buzzeo folks?</p> <p>6 A. It could be.</p> <p>7 Q. Do you know if he ever did that?</p> <p>8 A. I don't remember.</p> <p>9 Before we go back to -- go to</p> <p>10 another document, may I go back and expand upon</p> <p>11 an answer to a past question?</p> <p>12 Q. Sure.</p> <p>13 A. You had asked me the question,</p> <p>14 had Rite Aid seeked guidance from the DEA or had</p> <p>15 gotten any comments from the DEA.</p> <p>16 The Perryman Distribution Center</p> <p>17 was inspected by the DEA in 2005, 2009 and 2012.</p> <p>18 As the standard operating procedures and the</p> <p>19 suspicious order monitoring programs were</p> <p>20 reviewed at all of those times, and there was no</p> <p>21 deficiencies noted. I just wanted to make that</p> <p>22 part of the record, to say -- when I say we</p> <p>23 didn't seek DEA guidance, but we had the DEA that</p> <p>24 went to the distribution centers and did some</p>

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1 inspections.
 2 Q. Were you present at any of those
 3 DEA audits?
 4 A. I was not.
 5 Q. So you don't have any firsthand
 6 knowledge of those audits, do you?
 7 MS. McENROE: Objection to form.
 8 THE WITNESS: I have -- there's
 9 various emails and communications from
 10 the individuals that were at the DEA
 11 audits.
 12 BY MR. POWERS:
 13 Q. But you didn't talk to any of the
 14 DEA agents who did the inspections, did you?
 15 A. Not that I remember.
 16 Q. So all the information that you
 17 learned about those DEA audits was from someone
 18 at the distribution center itself?
 19 A. That is correct.
 20 MS. McENROE: Will, before we
 21 move to another document, can we take a
 22 comfort break?
 23 MR. POWERS: Sure.
 24 THE VIDEOGRAPHER: Going off the

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1 record at 2:30.
 2 - - -
 3 (A recess was taken from
 4 2:30 p.m. to 2:51 p.m.)
 5 - - -
 6 THE VIDEOGRAPHER: Back on the
 7 record at 2:51 p.m.
 8 BY MR. POWERS:
 9 Q. Right before the break we were
 10 talking about DEA inspectors. Right?
 11 A. Yes.
 12 Q. Do you know any DEA inspectors
 13 personally?
 14 A. I know a lot of DEA inspectors.
 15 Q. Do you know any DEA -- do you
 16 know -- let me back up here.
 17 Those DEA inspectors that you
 18 know personally, do you know any of them who
 19 audited the Perryman Distribution Center?
 20 A. I do know one of the DEA agents
 21 that audited Perryman.
 22 Q. Who was that?
 23 A. Doug -- Don Tush.
 24 Q. How do you know Don Tush?

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1 A. When I had the Baltimore market,
 2 that was also Don's area from the DEA. So he
 3 would visit stores or seek prescriptions, things
 4 like that.
 5 Q. When you say you had the
 6 Baltimore market, what time period was that from?
 7 A. That was prior to 1995 when I
 8 moved into the corporate office.
 9 Q. So you knew him from your time in
 10 Baltimore. Right?
 11 A. I did.
 12 Q. So that would have been sometime
 13 before '95. Right?
 14 A. Yes.
 15 Q. So you knew Don Tush for a while
 16 before he audited the Perryman facility in 2012.
 17 Right?
 18 MS. McENROE: Objection to form.
 19 THE WITNESS: Yes. But then I
 20 moved out of the area to Camp Hill.
 21 BY MR. POWERS:
 22 Q. I'm going to hand you what's been
 23 marked as Hart Exhibit 12. It's some emails with
 24 the Bates stamp Rite_Aid_OMDL_0013345 through

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1 3346.
 2 - - -
 3 (Deposition Exhibit No. Rite
 4 Aid-Hart-12, Email chain, top one dated
 5 2012-07-11, Bates stamped
 6 Rite_Aid_OMDL_0013345 and
 7 Rite_Aid_OMDL_0013346, was marked for
 8 identification.)
 9 - - -
 10 BY MR. POWERS:
 11 Q. Take a look at that.
 12 A. (Reviewing document.)
 13 Q. Looking at Exhibit 12, it looks
 14 like this is an email exchange between -- or
 15 starting with, on the second page of Exhibit 12,
 16 starting with an email from Chris Belli to you
 17 copying Rick Chapman and Keith Frost. Right?
 18 A. Yes.
 19 Q. And it looks that Chris Belli is
 20 letting you know that the DEA just arrived in
 21 Perryman for an inspection. Right?
 22 A. Yes.
 23 Q. And that inspection he's
 24 referring to in this email in Exhibit 12, that's

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1 the 2012 audit by the DEA of the Perryman
2 facility?
3 A. Yes.
4 Q. Then on the first page of Exhibit
5 12, the second email from the bottom is from
6 Keith Frost to you and Christopher Belli. Right?
7 A. Yes. And Rick Chapman.
8 Q. And copying Rick Chapman. Right.
9 And in that email, Keith Frost
10 says, "Janet, Donald Tush sends his regards."
11 Do you see that?
12 A. I do.
13 Q. And then you respond to Keith's
14 email by saying, immediately above that, "Did all
15 go OK? I have known him a long time....send mine
16 to him as well."
17 Do you see that?
18 A. I do.
19 Q. So you knew Donald Tush well
20 enough that he was sending his regards to you.
21 Right?
22 A. Yes. We worked very closely on
23 many matters, even to this day.
24 Q. Do you consider Donald Tush a

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1 personal friend?
2 A. No.
3 Q. And you also send your regards
4 back to Don Tush. Right?
5 A. I did.
6 Q. Did you ever discuss this audit
7 with Don Tush?
8 A. I did not.
9 Q. Did you ever discuss the 2012
10 audit with any DEA employee?
11 A. I did not.
12 Q. You can put that exhibit to the
13 side.
14 Before the break, we were also
15 talking about the Buzzeo organization. Correct?
16 A. Correct.
17 Q. And the Buzzeo organization had
18 expertise in things like suspicious order
19 monitoring. Correct?
20 MS. McENROE: Objection to form.
21 THE WITNESS: I'm not sure that I
22 would say that they had expertise. I
23 think they had presentations and
24 programs. I'm not sure they had

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1 expertise.
2 BY MR. POWERS:
3 Q. Do you know if the Buzzeo
4 organization had former DEA employees in its
5 employment?
6 A. They did.
7 Q. Rite Aid used the Buzzeo
8 organization to perform some audits at the
9 distribution center, at least the distribution
10 center in Perryman. Right?
11 A. We did.
12 Q. So if Buzzeo did not have the
13 expertise, why did you allow -- why did Rite Aid
14 allow Buzzeo to come do audits?
15 MS. McENROE: Objection.
16 THE WITNESS: He was -- the
17 Buzzeo organization had knowledge of the
18 rules and laws and regulations. And many
19 times, it's much better to have someone
20 with eyes from the outside come in and
21 look at your operations and do an audit
22 and review, as a second set of eyes
23 looking at your policies and procedures.
24 BY MR. POWERS:

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1 Q. Do you consider Buzzeo's
2 knowledge of the rules and laws and regulations
3 not to be expertise?
4 MS. McENROE: Objection to form.
5 THE WITNESS: I think they are
6 one of the industry-leading companies
7 that have products that they sell to
8 pharmacies and distribution centers to go
9 out and do audits and accountabilities.
10 - - -
11 (Deposition Exhibit No. Rite
12 Aid-Hart-13, Email dated 2012-05-18,
13 Bates stamped Rite_Aid_OMDL_0046855
14 through Rite_Aid_OMDL_0046875, was marked
15 for identification.)
16 - - -
17 BY MR. POWERS:
18 Q. I'm going to hand you what's been
19 marked Rite Aid-Hart Exhibit 13. The Bates
20 number on this exhibit is Rite_Aid_OMDL_46855
21 through 46875. It's an email and an attachment.
22 Why don't you take a look at
23 that.
24 A. (Reviewing document.)

<p style="text-align: right;">Page 214</p> <p>1 Q. Once again, this is a multi-page 2 document. I'm going to tell you, I'm going to 3 ask questions about the email and only particular 4 pages in the attachment, if that helps your 5 review. 6 A. Pardon me. The first page and 7 what other pages? 8 Q. Please feel free to review the 9 attachments to the extent you need to, but I will 10 only be asking questions about a couple 11 particular pages that we can -- that I can 12 identify to you when we get to them. 13 A. Okay. 14 (Reviewing document.) 15 Q. So the first page of Exhibit 13, 16 it looks like an email. Right? 17 A. Yes. 18 Q. It looks like it's from someone 19 named Dave Jakubowski at Cegedim; is that right? 20 A. Yes. 21 Q. Who is Dave Jakubowski? 22 A. I'm going to guess a salesperson. 23 Q. This email was addressed to you 24 and Chris Belli. Correct?</p>	<p style="text-align: right;">Page 216</p> <p>1 A. If the email says he did, then he 2 did. 3 Q. You have no reason to believe 4 otherwise. Right? 5 A. Right. 6 Q. And then he looks like he says in 7 the second paragraph, the last sentence there, 8 "I've included a PDF copy of the slides from our 9 WebEx for your reference." 10 Do you see that? 11 A. Pardon? Where is that? 12 Q. It's actually highlighted on the 13 screen in front of you too if that's easier to 14 see, but it's the second sentence in the second 15 paragraph. 16 A. Yes. 17 Q. It looks like there's an 18 attachment to this email entitled "Cegedim Buzzeo 19 PDMA SOM Compliance Solutions presentation.pdf." 20 Do you see that? 21 A. Yes. 22 Q. I believe that's the attachment 23 reflected in the other pages of Exhibit 13. 24 Does that make sense to you?</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Yes. 2 Q. And the email starts, "Hello 3 Janet and Chris, Once again, thanks for taking 4 time from your busy schedules to participate in 5 our SOM presentation and discussion this 6 morning." 7 Do you see that? 8 A. I do. 9 Q. And in there when it says "SOM," 10 I take that to mean suspicious order monitoring 11 presentation. 12 Do you agree? 13 A. I agree. 14 Q. Do you know what led to the 15 suspicious order monitoring presentation that was 16 given by Dave Jakubowski to you and Chris Belli? 17 MS. McENROE: Objection to form. 18 THE WITNESS: I don't really 19 know. 20 BY MR. POWERS: 21 Q. Do you recall that Dave -- that 22 Mr. Dave Jakubowski gave you and Chris Belli a 23 presentation about suspicious order monitoring in 24 2012?</p>	<p style="text-align: right;">Page 217</p> <p>1 A. Yes. 2 Q. Further down in the first page of 3 Exhibit 13, he says, Mr. Jakubowski says in the 4 fourth paragraph, "I have had the pleasure of 5 meeting and having dinner with Mike Podgurski and 6 Tammy Royer during the NACDS closing ceremony 7 event in Boston last year." 8 Do you see that? 9 A. Yes. 10 Q. Who is Tammy Royer? 11 A. She was an SVP of pharmacy 12 operations. 13 Q. What role would she have with 14 regards to suspicious order monitoring? 15 MS. McENROE: Objection to form. 16 THE WITNESS: I don't necessarily 17 know that Tammy would necessarily be 18 involved in suspicious order monitoring. 19 Buzzeo has a plethora of programs that 20 impact dispensing of prescriptions, 21 recordkeeping at pharmacies. So in that 22 respect, she would be involved with them. 23 BY MR. POWERS: 24 Q. And then later on in that same</p>

<p style="text-align: right;">Page 218</p> <p>1 paragraph we were just looking at, it says, 2 "Since Ron Buzzeo has in the past worked with 3 Mike, Tammy, and you Janet, I'm certain if" 4 this -- "if his schedule allows, he would like to 5 be there too." 6 Do you see that? 7 A. I do. 8 Q. What work did you do with Ron 9 Buzzeo? 10 MS. McENROE: Objection to form. 11 THE WITNESS: I think between 12 myself and Jim Krahulec, we may have done 13 a few things with Ron, which is how I got 14 to know him. I don't know that -- I 15 can't remember specifically what we did 16 with him. 17 BY MR. POWERS: 18 Q. Do you know what work Mike did 19 with Ron Buzzeo referred to here in this 20 sentence? 21 A. I do not know. Again, I think 22 it's related to controlled substances. Everybody 23 in all the departments would come together and 24 they may go to a meeting and discuss controlled</p>	<p style="text-align: right;">Page 220</p> <p>1 put together a proposal and budgetary pricing for 2 a high level assessment of your current SOM 3 program for your consideration if you should 4 decide to have a professional outside consultant 5 review and report for future planning and process 6 improvements to your internal systems and 7 statistical model." 8 Do you see that? 9 A. I see it. 10 Q. Do you know if Rite Aid ever went 11 forward with this Buzzeo proposal to perform a 12 high level assessment of the Rite Aid SOM 13 program? 14 A. I do not believe we did. 15 Q. Do you know why Rite Aid did not 16 go forward with the Buzzeo assessment of its SOM 17 program? 18 MS. McENROE: Object to the form. 19 THE WITNESS: I believe that part 20 of this particular looking at the 21 proposal or looking at the SOM was to 22 make a comparison between what Buzzeo was 23 offering and what Rite Aid already had in 24 place. And at that particular time, we</p>
<p style="text-align: right;">Page 219</p> <p>1 substances. 2 Q. But you don't know specifically 3 what work Ron Buzzeo did for or with Mike? 4 A. Well, it doesn't really say that 5 he did work. The sentence says, I had the 6 pleasure of meeting and having dinner with Mike 7 and Tammy. It doesn't necessarily say that he 8 worked with them. 9 Q. The sentence says, "Since Ron 10 Buzzeo has in the past worked with" -- 11 A. Oh, yeah. Sorry. 12 Q. -- "Mike, Tammy, and you Janet." 13 So I take that to mean that he -- 14 that Ron Buzzeo has in fact worked with Mike. 15 Right? 16 A. You are correct. I apologize. 17 Q. So do you know specifically what 18 work Ron Buzzeo did with Mike Podgurski? 19 A. I do not. 20 Q. Do you know what work Ron Buzzeo 21 did with Tammy Royer? 22 A. I do not. 23 Q. Moving down in this email to the 24 last paragraph, it says, "Paul Hamby and I will</p>	<p style="text-align: right;">Page 221</p> <p>1 determined that what we had in place was 2 sufficient. 3 BY MR. POWERS: 4 Q. You say at that particular time. 5 That would have been in 2012? 6 A. Yes. 7 Q. Did you -- did some of the 8 previous exhibits we talked about where you met 9 with Maggie Perritt and Andy Palmer, those 10 meetings about the suspicious order monitoring 11 program at Rite Aid were in 2010. Right? 12 A. That is correct. 13 Q. Did you do a separate analysis of 14 whether the Rite Aid program was sufficient in 15 2012? 16 A. I believe we had internal 17 discussions of the individuals involved after the 18 presentation. 19 Q. Were those discussions recorded 20 anywhere? 21 A. To the best of my knowledge, no. 22 Q. Were those discussions held in 23 person? 24 A. Yes.</p>

<p style="text-align: right;">Page 222</p> <p>1 Q. Where were they held?</p> <p>2 A. At the corporate office where</p> <p>3 everybody is located.</p> <p>4 Q. Who would have participated in</p> <p>5 those discussions about this suspicious order</p> <p>6 monitoring system in 2012?</p> <p>7 A. Chris, myself, perhaps Sophia or</p> <p>8 Andy, depending on who was in asset protection at</p> <p>9 that time. Maybe perhaps someone from pharmacy</p> <p>10 operations.</p> <p>11 The thing to understand with this</p> <p>12 is Buzzeo is one vendor that's out there. There</p> <p>13 are other vendors as well.</p> <p>14 Q. Did Rite Aid ever use any other</p> <p>15 vendor to evaluate its suspicious order</p> <p>16 monitoring program?</p> <p>17 A. We did not.</p> <p>18 Q. Did Rite Aid ever get the</p> <p>19 proposal and pricing referred to here in the last</p> <p>20 paragraph of Exhibit 13?</p> <p>21 A. I did not see a proposal.</p> <p>22 Q. I want to direct your attention</p> <p>23 to page with the Bates number 46868 of</p> <p>24 Exhibit 13.</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. So it looks like Buzzeo is saying</p> <p>2 here, in 2012, that a suspicious order monitoring</p> <p>3 system cannot be threshold based. Right?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: That is what's</p> <p>6 stated on the slide.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. Then on that page 46869 again, it</p> <p>9 says that the "SOM Model" heading there -- under</p> <p>10 the "SOM Model" heading there, it says,</p> <p>11 "Statistically based model" is "highly</p> <p>12 recommended." Right?</p> <p>13 A. That is correct.</p> <p>14 Q. And Rite Aid used, at this time</p> <p>15 in 2012 and in fact since, the entire time you've</p> <p>16 been at Rite Aid, a threshold-based system as</p> <p>17 part of its suspicious order monitoring. Right?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: The threshold was</p> <p>20 one component of the program. It was not</p> <p>21 the entire suspicious order monitoring</p> <p>22 program. Statistically-based model that</p> <p>23 is highly recommended is built into our</p> <p>24 automatic replenishment system. It's</p>
<p style="text-align: right;">Page 223</p> <p>1 Are you there?</p> <p>2 A. Yes. 868?</p> <p>3 Q. Correct.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And it looks like this -- this</p> <p>6 page is part of the presentation that was given</p> <p>7 to you and Chris Belli in 2012; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And the title of this slide is</p> <p>10 "Suspicious Order Monitoring-Challenges." Right?</p> <p>11 A. Yes.</p> <p>12 Q. And then the second one -- or,</p> <p>13 I'm sorry, excuse me.</p> <p>14 The first bullet point there says</p> <p>15 "Is an order size 'threshold' system sufficient?"</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And then on the second page --</p> <p>19 or, excuse me, the next page, 46869, it looks</p> <p>20 like Buzzeo answers that question and says in the</p> <p>21 bullet point -- or the list entitled "SOM Model,"</p> <p>22 it says, "Can not be threshold based."</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>	<p style="text-align: right;">Page 225</p> <p>1 looking at individual drugs and</p> <p>2 individual pharmacies for their order</p> <p>3 statistics and their order parameters.</p> <p>4 So two of the components that you have</p> <p>5 just identified are part of the Rite Aid</p> <p>6 suspicious order monitoring program.</p> <p>7 BY MR. POWERS:</p> <p>8 Q. The other thing on the previous</p> <p>9 page 46868 says, the second bullet point, "Can</p> <p>10 orders be 'cut' to allow product to be shipped</p> <p>11 (vs. triggering SOM flags)?"</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Do you know if Buzzeo advised</p> <p>15 that the orders should not be cut to allow</p> <p>16 products to be shipped?</p> <p>17 A. I do not know.</p> <p>18 Q. But Rite Aid did cut its orders</p> <p>19 before shipping them to get them below the</p> <p>20 threshold. Right?</p> <p>21 MS. McENROE: Objection to form.</p> <p>22 THE WITNESS: The orders that</p> <p>23 were cut were orders based upon our own</p> <p>24 thresholds established. There's --</p>

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1 that's not necessarily a suspicious
 2 order. And again, it would have been
 3 generated by our own computer algorithm
 4 for an individual store.
 5 BY MR. POWERS:
 6 Q. But my question is just simply,
 7 Rite Aid did cut its orders to get them below the
 8 5,000 dosage unit threshold. Right?
 9 MS. McENROE: Objection to form.
 10 THE WITNESS: We cut the orders
 11 to 5,000 dosage units.
 12 BY MR. POWERS:
 13 Q. I'm going to hand you what's been
 14 marked as Rite Aid Hart Exhibit 14. It's an
 15 email exchange, 38054 through 38055.
 16 Take a look at that.
 17 - - -
 18 (Deposition Exhibit No. Rite
 19 Aid-Hart-14, Email chain, top one dated
 20 2012-12-18, Bates stamped
 21 Rite_Aid_OMDL_0038054 and
 22 Rite_Aid_OMDL_0038055, was marked for
 23 identification.)
 24 - - -

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1 THE WITNESS: (Reviewing
 2 document.)
 3 BY MR. POWERS:
 4 Q. It looks like the document
 5 reflected in Exhibit 14 starts with an email from
 6 Jessica Ruffin to you, copying Jennifer Wyatt,
 7 Patricia Jones and William Walker. Right?
 8 A. Yes.
 9 Q. Who is Jessica Ruffin?
 10 A. An associate at Liverpool
 11 Distribution Center.
 12 Q. At the bottom, her signature
 13 says, "Distribution Center #35." Right?
 14 A. Yes. I believe that's -- oh,
 15 maybe that's Tuscaloosa.
 16 Q. I believe it is Tuscaloosa.
 17 Do you know if Jessica Ruffin was
 18 the DEA coordinator at the Tuscaloosa facility?
 19 A. I don't remember.
 20 Q. And Jessica Ruffin writes to you,
 21 "Janet, Can you please confirm the threshold
 22 amounts that we discussed at the DEA conference
 23 so that we can have something to put in our
 24 files?"

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1 Do you see that?
 2 A. I do.
 3 Q. What DEA conference is she
 4 referring to here?
 5 A. I believe that was a conference
 6 that Chris Belli had put together for all of the
 7 DEA coordinators to come together and have
 8 everybody's level set with having different
 9 people present different things to them.
 10 Q. Did you present at that
 11 conference?
 12 A. I believe I did.
 13 Q. Did you talk about threshold
 14 amounts at that conference?
 15 A. I don't remember.
 16 Q. And it looks like Jessica Ruffin
 17 is asking you to confirm the threshold amounts.
 18 Right?
 19 A. Yes.
 20 Q. And it looks like she has a list
 21 there.
 22 "Liquids -- 50 bottles; Pills --
 23 [REDACTED]
 24 Suboxone Film -- 5000 doses." Right?

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1 A. Yes.
 2 Q. And she's asking for a
 3 confirmation of those threshold limits so she can
 4 put it in her files. Right?
 5 A. Yes.
 6 Q. Was it not a standard operating
 7 procedure of Rite Aid to have the threshold
 8 limits in the files of the distribution centers?
 9 MS. McENROE: Objection to form.
 10 THE WITNESS: They should be in
 11 the distribution centers, yes.
 12 BY MR. POWERS:
 13 Q. And the threshold amounts haven't
 14 changed the entire time you were at Rite Aid.
 15 Right?
 16 MS. McENROE: Objection to form.
 17 THE WITNESS: They have not.
 18 BY MR. POWERS:
 19 Q. So why does Jessica Ruffin not
 20 know what the threshold amounts were?
 21 MS. McENROE: Objection, form.
 22 THE WITNESS: There was some
 23 confusion about the Suboxone film
 24 tablets. Those particular medications

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1 come in bottles of 30 pills only. So
 2 there was some question as to what was
 3 out there, the number of bottles that
 4 were in some of the policies and
 5 procedures. And stores that needed the
 6 product were getting back, based on the
 7 number of bottles, when three bottles
 8 would equal one of another bottle.
 9 So there was some discussion
 10 about putting the 5,000 doses on there to
 11 clear that particular item up.
 12 BY MR. POWERS:
 13 Q. And so far we've been mostly
 14 talking about the 5,000 dosage unit thresholds,
 15 but it looks like here she's asking -- Jessica
 16 Ruffin is asking for the threshold limits in
 17 number of bottles or boxes. Right?
 18 A. Liquids?
 19 Q. Well, it says, yeah, liquids
 20 50 bottles, pills 5,000. It doesn't have a unit
 21 there.
 22 A. Yeah. The difference there is
 23 that is pseudoephedrine, which is a List I
 24 chemical, not a controlled substance. That was

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1 different than a controlled substance 5,000
 2 tablet limit. [REDACTED]
 3 [REDACTED] tablets a week to any given store in
 4 an order.
 5 Q. You said 5,000 tablet limit.
 6 Is it a 5,000 tablet limit or a
 7 5,000 dosage unit?
 8 A. Dosage unit limit.
 9 Q. Was there confusion at the
 10 distribution centers about how to calculate what
 11 constituted a dosage unit?
 12 MS. McENROE: Objection to form.
 13 THE WITNESS: There is confusion
 14 in the industry about what to calculate
 15 as a dosage unit. For example, liquids,
 16 they're at 50 bottles. You can have a
 17 dose in a liquid where you have the
 18 active ingredient of 5 milligrams of a
 19 drug in a teaspoon, which may be a dose,
 20 or you can have a dose with 5 milligrams
 21 of an active ingredient in a tablespoon,
 22 which could be a dose.
 23 So calculating dose from liquid
 24 to liquid to liquid is difficult, based

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1 on how the individual liquids are
 2 manufactured.
 3 BY MR. POWERS:
 4 Q. Whose responsibility was it to
 5 translate the dosage units, the 5,000 dosage unit
 6 threshold, into the particular item's form, shall
 7 we say?
 8 MS. McENROE: Objection.
 9 THE WITNESS: For the liquids,
 10 the bottle limit was 50 bottles.
 11 However, that one sometimes was high and
 12 that would be cut back.
 13 BY MR. POWERS:
 14 Q. But my question, really I'm just
 15 trying to understand, if the distribution center
 16 limit is 5,000 dosage units. Right?
 17 A. (Witness nods head.)
 18 Q. Was it up to the distribution
 19 centers -- each individual distribution center to
 20 figure out how to calculate what constituted
 21 5,000 dosage units in terms of pills, bottles,
 22 tabs, et cetera?
 23 MS. McENROE: Objection to form.
 24 THE WITNESS: It was not their

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1 determination or not their job to
 2 calculate the liquids. They basically
 3 based it on tablets and capsules and pill
 4 forms versus the milliliters or the
 5 liquid form.
 6 BY MR. POWERS:
 7 Q. Putting liquids aside for a
 8 second, what about just regular pills.
 9 Whose responsibility was it to
 10 calculate what constituted 5,000 dosage units?
 11 A. It was the distribution center's
 12 pickers that would establish if there was 5,000
 13 dosage units.
 14 Q. So the distribution center
 15 associates would be the ones who have to figure
 16 out how many bottles a particular controlled
 17 substance would equal 5,000 dosage units; is that
 18 right?
 19 A. Yes. Through the formula that we
 20 looked at on one of the forms earlier. I think
 21 it was the picker form that they signed that
 22 talked about the 10 bottles, 100 bottles, the
 23 50 bottles, based on that.
 24 Q. And that was Exhibit 3, I

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1 believe, the Controlled Drug Above Average Order
2 Monitoring?
3 A. Yes.
4 Q. Did you provide guidance about
5 how to calculate the number of bottles that
6 equaled 5,000 dosage units?
7 A. I may have on individual
8 products, but there's -- there are a tremendous
9 number of liquids to do calculations on. So
10 simply stating the 50 bottles was the best of all
11 solutions.
12 Q. Then going back to the first page
13 of Exhibit 14 here, you write an email in the
14 middle of the page replying to Jessica Ruffin,
15 saying, "This sounds correct however we are
16 looking to change to true suspicious order
17 thresholds as soon as possible."
18 Do you see that?
19 A. I see that.
20 Q. You use the word "true suspicious
21 order thresholds."
22 Are those somehow different than
23 the 5,000 dosage unit threshold that we've been
24 talking about?

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1 A. They are not different than the
2 overall program, which would be the 5,000 dosage
3 units, the algorithms, the asset protection side
4 of it. Together, that is our suspicious order
5 program.
6 Q. You say you're looking to change
7 to true suspicious orders.
8 How can you change to something
9 that is already in place?
10 A. We were looking to combine the
11 suspicious order program together, as we had
12 discussed previously, and make sure that
13 everything was aligned at that particular point
14 and everybody knew exactly what the program was.
15 Q. Because as you testified before,
16 some people did not understand exactly what the
17 program was. Right?
18 MS. McENROE: Objection to form.
19 THE WITNESS: Some people did not
20 understand the program in its entirety.
21 BY MR. POWERS:
22 Q. And one of those people was Kevin
23 Mitchell. Right?
24 MS. McENROE: Objection to form.

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1 THE WITNESS: I believe that to
2 be the case, yes.
3 BY MR. POWERS:
4 Q. And Kevin Mitchell was concerned
5 about the thresholds that were in place at the
6 order -- at the Rite Aid suspicious order
7 monitoring program. Right?
8 MS. McENROE: Objection to form.
9 THE WITNESS: Kevin Mitchell
10 identified that in an email, that he was
11 concerned. Follow-up with that was Kevin
12 Mitchell identified that what we had in
13 place were correct and all we needed to
14 do was commit that to paper and so that
15 we could give a good tool to the
16 distribution centers to utilize.
17 BY MR. POWERS:
18 Q. But the words you chose to write
19 here were "change to true suspicious order
20 thresholds." Right?
21 A. That is correct.
22 Q. How come you didn't say we are
23 looking to combine our existing program?
24 MS. McENROE: Objection to form.

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1 THE WITNESS: I don't know.
2 BY MR. POWERS:
3 Q. How come you didn't say we're
4 looking to simply explain our threshold program?
5 MS. McENROE: Objection to form.
6 THE WITNESS: I don't know.
7 BY MR. POWERS:
8 Q. You specifically chose to say
9 "change to true suspicious order thresholds."
10 Right?
11 A. I put that in the email, yes.
12 Q. Was that a result of your
13 conversations with the Buzzeo organization?
14 A. I don't believe so. The Buzzeo
15 association was in May and this email is in
16 December. So there would have been some
17 communication if we were going to go over that
18 period of time.
19 I think another piece of the
20 puzzle here also is, since we are healthcare
21 providers and we want our patients to get the
22 proper medications that they need and have our
23 pharmacists have the ability to dispense them,
24 that we wanted to make sure that our patients

<p>Page 238</p> <p>1 weren't suffering by the threshold of the 5,000. 2 And so this was the beginning of where we were 3 looking to bring everything together and perhaps 4 enhance the program. 5 Q. Did you ever -- did Rite Aid ever 6 change to true suspicious order thresholds, as 7 you referred to in this email? 8 MS. McENROE: Object to form. 9 THE WITNESS: We had suspicious 10 order programs in place. I don't believe 11 that we made any changes to the program. 12 BY MR. POWERS: 13 Q. And just to be clear, you never 14 made any changes to the suspicious order 15 monitoring program the entire time that Rite Aid 16 distributed controlled substances. Correct? 17 MS. McENROE: Objection to form. 18 THE WITNESS: That is correct. 19 - - - 20 (Deposition Exhibit No. Rite 21 Aid-Hart-15, Email dated 2013-09-04, 22 Bates stamped Rite_Aid_OMDL_0046648 23 through Rite_Aid_OMDL_0046662, was marked 24 for identification.)</p> <p>Page 239</p> <p>1 - - - 2 BY MR. POWERS: 3 Q. I'm going to hand you what's been 4 marked as Rite Aid-Hart Exhibit 15. This is an 5 email, again with some attachments. The Bates 6 numbers on this exhibit are Rite_Aid_OMDL_0046648 7 through 46662. 8 And I'm going to try to do the 9 same thing as we've done with some of these other 10 emails with long attachments. I'm just going to 11 ask you about the initial email and just a 12 particular couple pages that are attached to the 13 email. 14 A. (Reviewing document.) 15 Q. Have you had a chance to review 16 Exhibit 15? 17 A. I have. 18 Q. So it looks like the cover page 19 of Exhibit 15 is an email from Ed Harris at 20 Buzzeo PDMA to Tammy Royer. And it cc's you and 21 Sophia Lai. Right? 22 A. Correct. 23 Q. And in the middle of the 24 paragraph there on the first page of Exhibit 15,</p>	<p>Page 240</p> <p>1 it says, "Per our discussion I would like to set 2 up a conference call with you, Janet Hart, and 3 Sophia Lai to discuss SOM/drug diversion 4 compliance issues over the next couple of weeks 5 if possible." 6 Do you see that? 7 A. I do. 8 Q. And once again, the SOM acronym 9 here, does that stand for suspicious order 10 monitoring? 11 A. It does. 12 Q. Did you ever set up the 13 discussion that Ed Harris refers to in this 14 sentence? 15 A. I don't believe so. 16 Q. Why not? 17 A. Again, we had been reviewing our 18 suspicious order monitoring program, had talked 19 about it, as you've identified in the 20 communications presented, and did not have the 21 need to have a meeting with him. To the best of 22 my knowledge, I don't remember it occurring. 23 Part of the reason why Tammy is 24 the individual that this was addressed to is that</p> <p>Page 241</p> <p>1 I typically did not attend the NACDS conference. 2 Sophia did not attend the NACDS conference. So 3 we were not there to have the communication. 4 Q. You mentioned NACDS before as a 5 resource that you used to determine how Rite Aid 6 was to comply with various regulations regarding 7 controlled substances, though. Right? 8 A. Yes. 9 Q. But you didn't attend the 10 conferences for NACDS? 11 A. Certain individuals from our 12 corporation attended the conferences. I myself 13 may have attended one or two. But traditionally 14 that was not within my scope, as there were all 15 different things at those particular meetings. 16 There are hundreds of vendors with counting 17 machines and other types of automation and just 18 not what was within my job description. 19 Q. So even though you relied on 20 NACDS to inform your interpretation of various 21 regulations regarding controlled substances, you 22 thought it was not necessary to go to their 23 conferences; is that right? 24 MS. McENROE: Objection to form.</p>
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1 THE WITNESS: Not go to their
2 conferences, but there were work groups,
3 conference calls, other types of
4 communications that were participated in.
5 Simply to go to a conference was not in
6 my best interest of time, since the
7 portion of what's at the conference
8 related to my position was very, very
9 limited.

10 BY MR. POWERS:
11 Q. And turn to the second page of
12 Exhibit 15, second and third pages, I guess,
13 Bates number 46649 and 46650.
14 Do you see those pages?
15 A. I do.
16 Q. Do you recognize this particular
17 document and those two pages?
18 A. I have seen the document.
19 Q. When was the last time you saw
20 this document?
21 A. Within the last two days.
22 Q. When was the first time you saw a
23 document -- this document?
24 A. Probably at a meeting with

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1 counsel prior -- as preparation prior to the last
2 two days.
3 Q. I don't want to get into what you
4 discussed with counsel, but before meeting with
5 counsel and being shown this document, what was
6 the -- did you ever see this document before
7 that?
8 A. I don't remember seeing the
9 document.
10 Q. Do you know if Rite Aid received
11 this document in pages 46649 and 46650,
12 Exhibit 15?
13 MS. McENROE: Objection to form.
14 THE WITNESS: I did not receive
15 or view the document at the corporate
16 office. I'm not sure if it went to the
17 distribution center or someone else
18 within the organization.

19 BY MR. POWERS:
20 Q. The first sentence on the first
21 page of this document says, "This letter is being
22 sent to every entity in the United States
23 registered with the Drug Enforcement
24 Administration (DEA) to manufacture or distribute

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1 controlled substances."
2 Do you see that?
3 A. I see that.
4 Q. And Rite Aid was a DEA
5 registrant. Right?
6 MS. McENROE: Objection to form.
7 THE WITNESS: We were.
8 BY MR. POWERS:
9 Q. Did each distribution center have
10 its own DEA registration?
11 A. They did.
12 Q. So do you know if this particular
13 letter that was sent to every registrant was sent
14 to every distribution center at Rite Aid?
15 A. I'm going to go back and clarify
16 my answer to the previous question.
17 Not all Rite Aid distribution
18 centers had DEA numbers. There were a limited
19 number of them that had a DEA number.
20 Q. Were there Rite Aid distribution
21 centers that did not distribute controlled
22 substances?
23 A. Yes.
24 Q. Did every Rite Aid distribution

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1 center that did distribute controlled substances
2 have a unique DEA registration number?
3 A. They did.
4 Q. Do you know if this letter
5 reflected here in Exhibit 15 from the DEA was
6 sent to every Rite Aid distribution center that
7 had a DEA registration number?
8 A. From the first sentence of the
9 letter, it appears that it was sent to all
10 registrations, registrants, which would be the
11 Rite Aid distribution centers.
12 Q. But you never saw this letter
13 yourself at the corporate office before starting
14 to prepare for this deposition with counsel?
15 A. I do not remember seeing this
16 letter in 2007.
17 Q. Well, I'm not asking you if you
18 saw it in 2007. I'm asking if you saw it at any
19 point before you started preparing for this
20 deposition?
21 A. No.
22 Q. Did you see any similar letters
23 to this one during your time working for Rite
24 Aid?

<p style="text-align: right;">Page 246</p> <p>1 MS. McENROE: Objection to form. 2 THE WITNESS: Not that I 3 remember. No, I'll take that back. 4 There was a second letter that I 5 had -- bless you. 6 There was a second letter that I 7 had looked at, at a different time sent 8 by Mr. Rannazzisi. 9 BY MR. POWERS: 10 Q. Do you know the time frame when 11 you looked at that letter? 12 A. I looked at it at the same time I 13 looked at this letter with counsel. 14 Q. So just so we're clear, this 2007 15 letter from Joseph Rannazzisi is a separate 16 letter from the one you were talking about just 17 now? There's two letters from Rannazzisi that 18 you have seen as of today? 19 A. Yes. 20 Q. The 2007 letter reflected in 21 Exhibit 15 you had not seen prior to beginning to 22 prepare for this deposition. Right? 23 A. That's correct. 24 Q. How about the second letter from</p>	<p style="text-align: right;">Page 248</p> <p>1 much of a manual process. All the 2 processes were there, but they were in 3 different pieces. And we wanted to bring 4 it all together in one site, so that it 5 would be readily retrievable and the 6 corporate offices and the coordinators at 7 the DCs would have access to one 8 particular portal site that would bring 9 everything together. And in addition, 10 perhaps enhance the process. 11 BY MR. POWERS: 12 Q. And why was it a problem that it 13 was a manual process? 14 MS. McENROE: Object to form. 15 THE WITNESS: It was just time 16 and labor intensive. There were numerous 17 individuals working on different pieces 18 of the process. And if you could put it 19 into an electronic format where everybody 20 could gain quick asset -- access, that 21 would eliminate a lot of the manual 22 processes. 23 - - - 24 (Deposition Exhibit No. Rite</p>
<p style="text-align: right;">Page 247</p> <p>1 Mr. Rannazzisi, had you seen that letter before 2 you began to prepare for this deposition? 3 A. I had not. 4 Q. So you have not seen any letter 5 from Mr. Rannazzisi during your time working for 6 Rite Aid? 7 MS. McENROE: Objection to form. 8 THE WITNESS: I did not. 9 BY MR. POWERS: 10 Q. You can put that exhibit to the 11 side. 12 You talked a little bit earlier 13 about Rite Aid's efforts to combine the different 14 elements of the suspicious order monitoring 15 program into one location; is that right? 16 A. That is correct. 17 Q. When did that occur? 18 A. We started the process, based on 19 this documentation, it looks like late 2012, 20 2013. 21 Q. And why did you feel you needed 22 to do that? 23 MS. McENROE: Objection to form. 24 THE WITNESS: Because it was too</p>	<p style="text-align: right;">Page 249</p> <p>1 Aid-Hart-16, Email dated 2013-12-24, 2 Bates stamped Rite_Aid_OMDL_0016186 and 3 Rite_Aid_OMDL_0016187, was marked for 4 identification.) 5 - - - 6 BY MR. POWERS: 7 Q. I'm going to hand you what has 8 been marked as Rite Aid-Hart Exhibit Number 16. 9 It is -- surprise, surprise -- another email and 10 attachments. The email is Bates stamp 11 Rite_Aid_OMDL_0016186. And the attachment, which 12 was a native Excel sheet, just has one Bates 13 number, although it's a couple different pages. 14 The Bates number of the attachment is 15 Rite_Aid_OMDL_0016187. 16 A. (Reviewing document.) 17 Q. Is the document -- the email and 18 attachment reflected in Exhibit 16 familiar to 19 you? 20 A. Yes. 21 Q. When was the last time you saw 22 this document? 23 A. Back in 2013-2014. 24 Q. And what does this document</p>

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1 reflect?

2 A. This was a proposal that we were

3 putting together to develop a regulatory

4 compliance department within the corporation.

5 Q. Did Rite Aid ever actually put

6 together that regulatory compliance organization?

7 A. We did not put it together in

8 this format. It was changed numerous times since

9 that to, right now, what we discussed as far as

10 regulatory compliance under VP Amanda Glover.

11 Q. And was this also -- well, let me

12 back up.

13 It looks like in the attachment

14 to this email that there are -- it looks like job

15 titles at the top of each different page.

16 Like, for example, on the second

17 page of Exhibit 16, it says "Department Head" at

18 the top. Right?

19 A. That is correct.

20 Q. Am I interpreting that correctly,

21 that those are different titles for different

22 positions for people in the regulatory compliance

23 department?

24 A. Those were what was proposed.

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1 Obviously you wouldn't call it a department head

2 when you develop the job description, but those

3 are what were proposed as far as job function and

4 names.

5 Q. And this would have been in 2013,

6 it looks like, from the cover email. Right?

7 A. Yes.

8 Q. So this was during the time frame

9 when Rite Aid was still distributing controlled

10 substances out of its own distribution centers.

11 Right?

12 A. Yes.

13 Q. And then you say there in the

14 first page of the email, "Robert, Attached are

15 responsibilities for each position in the new

16 department. Black...we do today and will not

17 change. Red...We do the activity today, but

18 expect greater volume. Yellow...completely new

19 activity."

20 Do you see that?

21 A. I do.

22 Q. So it looks like those color

23 coding correspond to the job descriptions in the

24 attachment. Right?

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1 A. It does.

2 Q. So if you want to turn to the

3 second page of Exhibit 16 for the "Department

4 Head," once again, down at the bottom, it says,

5 yellow, "Completely new activity -- need to do"

6 lower -- "to lower risk and increase compliance."

7 Right?

8 A. It does.

9 Q. And under "Department Head," it

10 looks like it has a chart.

11 Are those the job

12 responsibilities that the department head would

13 be undertaking?

14 A. I believe so, yes.

15 Q. And then it divides them up into

16 columns for the job responsibilities should be

17 done daily, weekly and monthly. Right?

18 A. Correct.

19 Q. And so, for example, the very

20 first one under "Daily," it says, "High level

21 communications with DEA agents/investigators,

22 state Board of Pharmacy agents and other

23 regulatory agencies." Right?

24 A. Correct.

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1 Q. So that particular cell has no

2 highlighting or is not in red text. Right?

3 A. Correct.

4 Q. So that means that that

5 particular function is already being done at Rite

6 Aid. Right?

7 A. That is correct.

8 Q. So moving over to the "Weekly"

9 column, the first one there is in red text.

10 Right?

11 A. Correct.

12 Q. And that one says, "Review all

13 suspicious prescribers with Director, Controlled

14 Substances for an action plan: clinic

15 protocol/shut-off/re-evaluate in 3 months."

16 Right?

17 A. Correct.

18 Q. And so that particular job

19 responsibility, because it's in red text, means

20 that it -- Rite Aid is doing that activity in

21 2013, but just will be done in greater volume

22 going forward. Right?

23 A. True.

24 Q. So the one under -- so the cell

Page 254

1 under "Weekly" there is in yellow highlighting.
2 Right?
3 A. Yes.
4 Q. So that means that this is a
5 completely new activity. Right?
6 A. Uh-huh.
7 Q. That means that is not being done
8 at the time at Rite Aid. Right?
9 A. Uh-huh.
10 Q. I'm sorry, I need a verbal
11 answer.
12 A. Yes.
13 Q. Just so I have this clearly, one
14 is the -- the cells highlighted in yellow in this
15 document, the activity described is not being
16 done at all at the time in 2013. Correct?
17 A. Correct.
18 Q. And not just by the department
19 head or anything, it's not being done by anyone
20 at Rite Aid. Right?
21 MS. McENROE: Objection to form.
22 THE WITNESS: That is correct.
23 BY MR. POWERS:
24 Q. So there under "Department Head,"

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1 it says, "Develop dashboard reporting for
2 controlled substances and establish criteria to
3 identify trends within all aspects of controlled
4 substances, listed chemicals and PMP Programs."
5 Right?
6 A. Yes.
7 Q. So that was not being done at
8 Rite Aid in 2013. Right?
9 A. Correct.
10 Keep in mind that that's not
11 related to the distribution center. The trends
12 and all aspects of controlled substances was
13 related to the dispensing pharmacies.
14 Q. I'm just asking if it was done at
15 Rite Aid at all.
16 A. Okay.
17 Q. And that would include at the
18 distribution centers.
19 A. Okay.
20 MS. McENROE: You can make your
21 answers complete. It's okay.
22 THE WITNESS: Thank you.
23 BY MR. POWERS:
24 Q. So moving on to the page with the

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1 title "Specialist, Regulatory Compliance," it's I
2 think the third page, a little 3 at the bottom.
3 Over in the left-hand column for
4 "Daily," there's a cell that says "Suspicious
5 Order Monitoring, Distribution Centers." And
6 it's highlighted in yellow. Right?
7 A. That is correct.
8 Q. So that's a completely new
9 activity that is not being done at Rite Aid at
10 the time. Right?
11 MS. McENROE: Objection to form.
12 THE WITNESS: That activity was
13 not being done on a daily basis at the
14 corporate office. The suspicious order
15 monitoring program was in place. This
16 was bringing it in to the corporate
17 office at that particular point of time.
18 That does not mean that it wasn't being
19 done.
20 BY MR. POWERS:
21 Q. But the yellow highlighting says
22 completely new activity. So this says it's a
23 completely new activity.
24 Didn't you just testify that

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1 that's what that meant?
2 MS. McENROE: Objection to form.
3 THE WITNESS: It is a completely
4 new activity, but the completely new
5 activity is for the department that we
6 were putting together at the time.
7 BY MR. POWERS:
8 Q. It doesn't specify that here in
9 this document, though, does it?
10 MS. McENROE: Objection to form.
11 THE WITNESS: It doesn't specify
12 it in the document.
13 BY MR. POWERS:
14 Q. Moving down further in that
15 particular column, the next yellow cell says,
16 "Report suspicious orders from the DC to the DEA
17 (when identified and confirmed)."
18 That's also identified as a
19 completely new activity in this document. Right?
20 MS. McENROE: Objection to form.
21 THE WITNESS: It is, again, for
22 the department that we would again bring
23 it in to the corporate office. When we
24 were developing the department, we were

<p style="text-align: right;">Page 258</p> <p>1 attempting to get everything from a</p> <p>2 regulatory compliance under one roof and</p> <p>3 that was part of that.</p> <p>4 BY MR. POWERS:</p> <p>5 Q. You testified earlier, though,</p> <p>6 that the cells identified by the yellow</p> <p>7 highlighting meant that it was not being done by</p> <p>8 anyone at Rite Aid. Right? That's what you</p> <p>9 testified to earlier?</p> <p>10 MS. McENROE: Objection to form.</p> <p>11 THE WITNESS: Then I misspoke.</p> <p>12 It was not being done by anybody in the</p> <p>13 corporate office. That would be done by</p> <p>14 the individuals at the distribution</p> <p>15 center.</p> <p>16 BY MR. POWERS:</p> <p>17 Q. But this document doesn't specify</p> <p>18 that, does it?</p> <p>19 A. It does not.</p> <p>20 Q. Going further down in that column</p> <p>21 that we're just looking at, it says in the bottom</p> <p>22 there, "Develop a program to establish trends in</p> <p>23 controlled substance ordering from McKesson, ANDA</p> <p>24 and Rite Aid Distribution Centers."</p>	<p style="text-align: right;">Page 260</p> <p>1 things that we talked about in the daily column</p> <p>2 here on the "Specialist, Regulatory Compliance"</p> <p>3 page, you said those were being done at the</p> <p>4 distribution center. Right?</p> <p>5 A. Yes.</p> <p>6 Q. What's your basis for saying</p> <p>7 that?</p> <p>8 A. The distribution center was</p> <p>9 responsible for the picking, reviewing the</p> <p>10 orders, determining if it was suspicious or not,</p> <p>11 making the phone call to the pharmacist. And at</p> <p>12 the same time, if there was a suspicious order,</p> <p>13 the distribution center was responsible to report</p> <p>14 that in to corporate. That was part of their</p> <p>15 standard operating procedures.</p> <p>16 Q. I just want to be clear. You</p> <p>17 just said that the distribution center was</p> <p>18 responsible for determining whether a particular</p> <p>19 order was suspicious or not; is that right?</p> <p>20 A. The distribution center was</p> <p>21 responsible for identifying orders and</p> <p>22 determining if they were suspicious, yes.</p> <p>23 Q. Moving on to the next page, the</p> <p>24 one entitled "Senior Analyst, Controlled</p>
<p style="text-align: right;">Page 259</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. And that's also identified as a</p> <p>4 completely new activity. Right?</p> <p>5 A. It is.</p> <p>6 Q. And then over in the "Monthly"</p> <p>7 column in that same page, it says, "Review</p> <p>8 McKesson and DC threshold</p> <p>9 requests/actions/outcomes on a quarterly basis</p> <p>10 looking for issues/trends and reassess current</p> <p>11 need." Right?</p> <p>12 A. It does.</p> <p>13 Q. And once again, that's something</p> <p>14 that's identified as completely new activity.</p> <p>15 Right?</p> <p>16 A. The completely new activity was</p> <p>17 to review it on a quarterly basis. Trends,</p> <p>18 requests for threshold increases, were reviewed</p> <p>19 on a one-by-one basis. So yes, this was a new</p> <p>20 establishing a quarterly review.</p> <p>21 Q. So you weren't reviewing trends</p> <p>22 except on a one-by-one basis before this?</p> <p>23 A. Correct.</p> <p>24 Q. And you said some of the other</p>	<p style="text-align: right;">Page 261</p> <p>1 Substances."</p> <p>2 In the "Daily" column, which is</p> <p>3 another yellow highlighted cell, it says,</p> <p>4 "Utilize IMS tool to identify potential</p> <p>5 exceptions for individual Rite Aid" stores.</p> <p>6 Do you see that?</p> <p>7 MS. McENROE: Objection. Just</p> <p>8 for clarification, I think it says</p> <p>9 locations instead of stores, Will.</p> <p>10 MR. POWERS: Oh. Sorry.</p> <p>11 MS. McENROE: Do you want to just</p> <p>12 read that one again?</p> <p>13 BY MR. POWERS:</p> <p>14 Q. It says in the "Daily" column</p> <p>15 there, on the bottom cell on the page, entitled</p> <p>16 "Senior Analyst, Controlled Substances," "Utilize</p> <p>17 IMS tool to identify potential exceptions for</p> <p>18 individual Rite Aid locations."</p> <p>19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. What does the IMS tool refer to</p> <p>22 there?</p> <p>23 A. It is an industry tool of all the</p> <p>24 data from dispensing pharmacies -- retail</p>

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1 dispensing pharmacies that is DEA identified that
2 provides analytics and data to the company.
3 Q. And what is the potential
4 exception referred to here?
5 A. An exception would be a Rite Aid
6 pharmacy that would be an outlier, such as, say,
7 a store that dispensed the highest amount of
8 oxycodone, then we would want to look at that
9 book of business at that time. This is
10 identified as new because the IMS tool was just
11 rolled out at that particular time. It was in
12 its infancy and we had just started to use the
13 tool in 2013.
14 Q. Before 2013, did Rite Aid ever
15 use the IMS tool?
16 A. Not related to controlled
17 substances. Rite Aid uses the IMS data for other
18 different types of analytics for different
19 departments. It was just the controlled
20 substance tool was new at that time.
21 Q. Looking over in the "Monthly"
22 column on this same page, "Senior Analyst,
23 Controlled Substances," it looks like in the
24 second cell, the third cell and the fourth cell,

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1 and I'll read them in order, they're all
2 highlighted in yellow. Right?
3 A. Yes.
4 Q. It says, "Routine analysis of
5 stores trending high in oxycodone sales.
6 "Routine analysis of stores
7 trending high in hydrocodone sales.
8 "Routine analysis of stores
9 trending high hydromorphone sales." Right?
10 A. Correct.
11 Q. And those are identified with
12 yellow highlighting as completely new activities.
13 Right?
14 A. The routine analysis of that was,
15 yes, a new activity.
16 Q. So Rite Aid was not doing a
17 routine analysis of stores with trending high
18 oxycodone, hydrocodone or hydromorphone before
19 2013. Right?
20 MS. McENROE: Objection.
21 THE WITNESS: We did not do a
22 routine analysis, but we did do analysis.
23 This was, again, putting some structure
24 to the analysis to make it more routine.

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1 BY MR. POWERS:
2 Q. You said you did some analysis.
3 How did you do that analysis?
4 MS. McENROE: Objection.
5 THE WITNESS: We ran data from
6 our dispensing system and looked at the
7 various stores, as far as the various
8 products, identified outliers and then
9 would do a follow-up on that.
10 BY MR. POWERS:
11 Q. Did you do that, running the
12 dispensing data and looking for outliers, to
13 determine whether orders were suspicious orders?
14 MS. McENROE: Objection to form.
15 THE WITNESS: The analysis of
16 these items were not related to
17 suspicious orders. It was related to
18 individual stores and their dispensings.
19 BY MR. POWERS:
20 Q. So the trends that you were doing
21 analysis of before 2013 of sales of oxycodone,
22 hydrocodone and hydromorphone were not related to
23 identifying suspicious orders?
24 A. They were not.

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1 Q. Further down in the "Monthly"
2 column there, once again, they're all -- all
3 these cells are highlighted in yellow. It says,
4 "Analysis of top prescribers for oxycodone.
5 "Analysis of top prescribers for
6 hydrocodone.
7 "Analysis of top prescribers for
8 hydromorphone.
9 "Analysis of top prescribers for
10 methadone.
11 "Analysis of top prescribers for
12 buprenorphine."
13 Do you see those particular
14 cells?
15 A. I do.
16 Q. So Rite Aid was not doing
17 analysis for those particular drugs before 2013;
18 is that correct?
19 MS. McENROE: Objection to form.
20 THE WITNESS: That is not
21 correct. We were doing analysis. It was
22 not being done on a monthly basis. And,
23 again, we wanted to bring this all into
24 the one department. But there were

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1 analysis of prescribers for oxycodone,
2 hydrocodone. It was just not monthly and
3 it was not on a routine basis.
4 BY MR. POWERS:
5 Q. But once again, these are all
6 columns -- all cells highlighted in yellow are
7 described as a completely new activity. Right?
8 A. True.
9 Q. And there's no modifier in front
10 of "analysis." It does not say, like above,
11 routine analysis in these ones that I just read.
12 Right?
13 A. True.
14 Q. So that means that, as I read
15 this document, that any analysis was a completely
16 new activity, according to this document.
17 Isn't that right?
18 MS. McENROE: Objection to form,
19 misstates testimony.
20 THE WITNESS: That is how it may
21 read to you, yes.
22 BY MR. POWERS:
23 Q. And what do you do with any
24 analysis of stores trending high in oxycodone,

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1 hydrocodone, hydromorphone or methadone?
2 MS. McENROE: Objection to form.
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 Now, in the overall scheme of all
13 of the items that are on here, I still
14 would like to point out, leading back to
15 the case at hand, the only drug that was
16 ever distributed by the distribution
17 center in question was the hydrocodone.
18 And again, that was when it was a
19 Schedule III controlled substance.
20 BY MR. POWERS:
21 Q. Those hydrocodone analyses that
22 were done, what were the -- was there a name for
23 that analysis when it was done?
24 MS. McENROE: Objection to form.

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1 THE WITNESS: It was just a
2 running of all hydrocodone dispensings
3 from the particular pharmacies.
4 BY MR. POWERS:
5 Q. And who performed that analysis?
6 A. We would do it in our department
7 through the analytics. Or if my team wasn't as
8 sophisticated, we would have asset protection
9 also try to run some other reports.
10 Q. When you say your department, you
11 mean the government affairs department?
12 A. Yes. The people that worked for
13 me.
14 Q. And did you use that analysis of
15 the hydro -- or excuse me -- hydrocodone sales to
16 identify potentially suspicious orders?
17 A. We did not use that to identify
18 suspicious orders.
19 Q. Did you document that analysis in
20 any way?
21 A. There would be analysis, yes, in
22 files in my office that were turned over.
23 Q. Do you know if you turned over
24 those files to your attorneys?

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1 A. I did.
2 Q. Is there a particular name for
3 the file that they are kept in?
4 A. It would be hydrocodone. That
5 would be it. Or it would be an analytics
6 hydrocodone and the year. That's about it.
7 MS. McENROE: We've been going a
8 little over an hour.
9 MR. POWERS: You read my mind.
10 Let's take a break.
11 THE VIDEOGRAPHER: Going off the
12 record at 3:56.
13 - - -
14 (A recess was taken from
15 3:56 p.m. to 4:26 p.m.)
16 - - -
17 THE VIDEOGRAPHER: We're back on
18 the record at 4:26 p.m.
19 MR. POWERS: I have no further
20 questions for the witness.
21 MS. McENROE: Great. Thank you.
22 We have no further questions as well.
23 And we view this as the end of Ms. Hart's
24 fact deposition.

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1 MR. POWERS: Yes. She's coming
2 back for the 30(b)(6) tomorrow.
3 MS. McENROE: Agreed. Thank you.
4 THE VIDEOGRAPHER: This ends
5 today's deposition. We're going off the
6 record. The time is 4:26 p.m.
7 (Witness excused.)
8 (Deposition concluded at
9 approximately 4:26 p.m.)
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1
2 CERTIFICATE
3
4
5 I HEREBY CERTIFY that the witness
6 was duly sworn by me and that the deposition is a
7 true record of the testimony given by the
8 witness.
9
10 It was requested before
11 completion of the deposition that the witness,
12 JANET GETZEY HART, have the opportunity to read
13 and sign the deposition transcript.
14
15
16 ANN MARIE MITCHELL, a Federally
17 Approved Certified Realtime
18 Reporter, Registered Diplomate
19 Reporter, Registered Merit Reporter and
20 Notary Public
21
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24 reproduction of the same by any means, unless
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the certifying reporter.)

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1 INSTRUCTIONS TO WITNESS
2
3 Please read your deposition over
4 carefully and make any necessary corrections.
5 You should state the reason in the appropriate
6 space on the errata sheet for any corrections
7 that are made.
8 After doing so, please sign the
9 errata sheet and date it.
10 You are signing same subject to
11 the changes you have noted on the errata sheet,
12 which will be attached to your deposition.
13 It is imperative that you return
14 the original errata sheet to the deposing
15 attorney within thirty (30) days of receipt of
16 the deposition transcript by you. If you fail to
17 do so, the deposition transcript may be deemed to
18 be accurate and may be used in court.
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2 E R R A T A
3 - - - - -
4 PAGE LINE CHANGE
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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the foregoing
pages, 1 - 274, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in form or substance, if
any, noted in the attached Errata Sheet.

JANET GETZEY HART DATE

Subscribed and sworn
to before me this
____ day of _____, 20____.
My commission expires: _____

Notary Public